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**THE APPLICATION OF DISCLOSURE LAW, PRINCIPLES
AND REQUIREMENTS OF CORPORATE GOVERNANCE
AMONG PUBLIC LISTED COMPANIES
IN MALAYSIA**

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UUM

Universiti Utara Malaysia

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UNIVERSITI UTARA MALAYSIA
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UUM
Universiti Utara Malaysia

**A thesis submitted to the Ghazali Shafie Graduate School of Government in
fulfilment of the requirements for the Doctor of Philosophy
Universiti Utara Malaysia**

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ABSTRACT

Weakness in corporate governance and lack of disclosure are considered as causes of the Asian Economic Crisis in 1997-98. As a consequence, investors have demanded improvements in corporate governance practices as a guideline for companies to disclose accurate information. The Malaysian Code of Corporate Governance has consistently been revised to illustrate the guidelines towards best practices on the processes being adopted by companies in their operations to achieve the best governance framework. As most of the principles in the Code are largely derived from developed countries, it is timely to explore whether the principles influence disclosure of listed companies. The aim of this study is to investigate the application of disclosure law, principles and requirements among public listed companies in Malaysia. Qualitative data were collected from companies' annual reports (representing 30% of 742 companies) from the period of 2012-2015, interviews, legislations and laws, etc. Analytical, comparative and content analysis approach were employed in analysing the law and policy, corporate governance principles and best practice of disclosure requirements among public listed companies. The findings of this study are as follows: firstly, the current laws in Malaysia are sufficient to govern corporate disclosure, but they are dispersed in more than one act/ laws or legislative system, some of which can be found in the Capital Market and Services Act 2007 and others in Companies Act 2016; secondly, public listed companies have applied the principles of the corporate governance; thirdly, the Public Listed Companies have partially reported the best practice of the companies in their annual report. The study recommends that the disclosure principles and laws should be made compulsory for every public listed company. Bursa Malaysia should also stipulate clear and full provisions that specify the disclosure of information through the companies' annual reports and general corporate information to help investors to make good and timely decisions.

Keywords: Corporate Governance, Disclosure Principle, Best Practice, Public Listed Companies, Bursa Malaysia.

ABSTRAK

Kelemahan dalam tadbir urus korporat dan kekurangan penzahiran dianggap sebagai punca kepada krisis ekonomi Asia pada tahun 1997-98. Akibatnya, para pelabur telah menuntut penambahbaikan amalan tadbir urus korporat sebagai garis panduan syarikat untuk mendedahkan maklumat yang tepat. Kod Tadbir Urus Korporat Malaysia telah disemak semula secara konsisten untuk menggambarkan garis panduan amalan terbaik mengenai proses yang diambil oleh syarikat dalam operasi mereka untuk mencapai rangka tadbir urus yang terbaik. Memandangkan kebanyakan prinsip dalam Kod ini, sebahagian besarnya berasal dari negara maju, justeru terdapat keperluan untuk meneroka sama ada prinsip berkenaan mempengaruhi penzahiran syarikat tersenarai. Tujuan penyelidikan ini adalah mengkaji penerapan undang-undang, prinsip dan keperluan penzahiran dalam kalangan syarikat tersenarai awam di Malaysia. Data kualitatif dikumpulkan dari laporan tahunan syarikat (mewakili 30% daripada 742 syarikat) dari tempoh 2012-2015, wawancara, undang-undang dan undang-undang, dan lain-lain. Analisis analitik, perbandingan dan analisis kandungan digunakan untuk menganalisis undang-undang dan polisi, prinsip tadbir urus korporat dan amalan terbaik dalam kalangan syarikat tersenarai berhubung keperluan penzahiran. Penemuan kajian ini adalah seperti berikut: pertama, undang-undang semasa di Malaysia mencukupi untuk mengawal penzahiran korporat, tetapi ianya terkandung dalam lebih daripada satu statut/ undang-undang, di mana sebahagian daripada undang-undang itu boleh didapati dalam Akta Pasaran Modal dan Perkhidmatan 2007 dan sebahagian lain dalam Akta Syarikat 2016; kedua, syarikat tersenarai awam telah menggunapakai prinsip tadbir urus korporat dalam urusan mereka; ketiga, syarikat awam tersenarai telah melaporkan sebahagian amalan terbaik dalam laporan tahunan syarikat. Kajian ini mengesyorkan bahawa prinsip dan undang-undang penzahiran harus diwajibkan kepada setiap syarikat awam tersenarai. Selain itu, Bursa Malaysia perlu menetapkan peruntukan yang jelas dan lengkap bagi keperluan penzahiran maklumat melalui laporan tahunan syarikat dan maklumat korporat am untuk membantu pelabur membuat keputusan yang baik dan tepat pada masanya.

Kata Kunci: Tadbir Urus Korporat, Prinsip penzahiran, Amalan Terbaik, Syarikat Awam Tersenarai, Bursa Malaysia.

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DECLARATION

I declare that the thesis is a presentation of my original research work. Wherever contributions of others are involved, every effort is made to indicate this clearly, with due reference to the literature, and acknowledgement of collaborative research and discussions.

Rami Mohammad Abed Al Rasoul Al Sweity



TABLE OF CONTENTS

PERMISSION TO USE	i
ABSTRACT	ii
ABSTRAK	iii
ACKNOWLEDGEMENT	iv
DECLARATION	v
TABLE OF CONTENTS	vi
LIST OF TABLES	xiii
LIST OF FIGURES	xvi
TABLE OF CASES	xvii
TABLE OF STATUTES	xviii
LIST OF APPENDICES	xix
LIST OF ABBREVIATIONS	xx
CHAPTER ONE BACKGROUND OF THE STUDY.....	1
1.1 Introduction.....	1
1.2 Problem Statement	10
1.3 Research Questions	18
1.4 Research Objectives	20
1.5 Significance of the Study	20
1.6 Limitations of the Study.....	22
1.7 Outline of the Chapters	23
CHAPTER TWO LITERATURE REVIEW	26
2.1 Introduction	26
2.2 The Concept of Corporate Governance.....	26
2.3 The Development of Corporate Governance	35
2.3.1 OECD's Principles of Corporate Governance Framework	36
2.3.2 The International Integrated Reporting Council (IIRC).....	39
2.3.3 The Development of Corporate Governance in Malaysia.....	39
2.3.3.1 The Malaysian Initiatives in Promoting CG.....	41

2.3.3.2 Malaysian Code of Corporate Governance	44
2.3.3.3 Companies Act 2016	46
2.3.3.4 Capital Market and Services Act (2007)	48
2.3.3 The Malaysian Capital market Master Plans.....	50
2.4 The Importance of Corporate Governance and Disclosures	55
2.5 Theories of Corporate Governance and Disclosures.....	57
2.5.1 The Agency Theory	58
2.5.1.1 What is Agency Theory?	58
2.5.1.2 The Agency Conflicts	61
2.5.2 Signalling Theory	63
2.5.3 Legitimacy Theory	64
2.5.4 Proprietary Costs Theory.....	68
2.5.5 Capital Need Theory	71
2.6 Corporate Governance Quality and Voluntary Disclosure	72
2.7 The Disclosure Policy in Malaysia	73
2.8 Transparency in Financial Reporting	80
2.9 Corporate Disclosure Trend in Malaysia	82
2.10 The Best Practice in Malaysia.....	85
2.11 Summary of Chapter	88
CHAPTER THREE RESEARCH METHODOLOGY	91
3.1 Introduction	91
3.2 Research Framework.....	91
3.3 Research Design.....	93
3.4 Operational Definitions	97
3.5 Scope of Research	100
3.6 Types of Data	103
3.6.1 Primary Data.....	103
3.6.2 Secondary Data.....	104
3.6.3 Tertiary Data.....	104
3.7 Data Collection Methods.....	105
3.8 Analysis of Data	108

CHAPTER FOUR THE DISCLOSURE LAW AND POLICY OF CORPORATE GOVERNANCE APPLICABLE TO PUBLIC LISTED COMPANIES	110
4.1 Introduction	111
4.2 The Principles of MCCG	113
4.2.1 Establish Clear Roles and Responsibilities	114
4.2.2 Strengthen Composition.	117
4.2.3 Reinforce Independence.	119
4.2.4 Foster Commitment.....	122
4.2.5 Uphold Integrity in Financial Reporting	123
4.2.5.1 Audit Committee	128
4.2.5.2 Audit Committee Size	130
4.2.5.3 Audit Committee Meetings	132
4.2.5.4 Internal Audit Activities	133
4.2.6 Recognise and Manage Risks.....	134
4.2.7 Ensure Timely and High Quality Disclosure	136
4.2.8 Strengthen Relationship Between Company and Shareholders	139
4.2.9 Conclusion.....	141
4.3 Disclosure Policies of the Capital Market and Service Act 2007	142
4.3.1 Power of Commission to Require Production of Books	143
4.3.2 Offences.....	145
4.3.3 Power to Specify form and Manner of Submission	146
4.3.4 Privileges Communications.....	147
4.3.5 Disclosure to Securities Commission.....	149
4.3.6 Disclosure of Trading in Contracts	151
4.3.7 Conclusion.....	152
4.4 Disclosure Principle of Companies Act 2016	152
4.4.1 Power of the Company to Require Disclosure	153
4.4.2 Disclosure of Interests	156
4.4.3 Protection the Officers who Make Disclosures	158
4.4.4 Conclusion.....	160
4.5 The Provisions of Bursa Malaysia Listing Requirements.....	160
4.5.1 Corporate Disclosure Policy.....	162

4.5.2 Immediate Disclosure of Material Information	163
4.5.3 Thorough Public Dissemination	166
4.5.4 Clarification, Confirmation or Denial of Rumours or Reports	168
4.5.5 Unusual Market Activity (UMA)	170
4.5.6 Promotional Disclosure Activity	172
4.5.7 Content and Preparation of a Public Announcement	175
4.5.7.1 Principles of Disclosure in Announcements.....	175
4.5.7.2 Plain Language in Announcements	176
4.5.7.3 Periodic Disclosure Requirements.....	177
4.6 Insider Trading	180
4.7 Conclusion.....	184

CHAPTER FIVE THE APPLICATION OF CORPORATE GOVERNANCE PRINCIPLES AND BMLR AMONG PUBLIC LISTED

COMPANIES	188
5.1 Introduction	188
5.2 Corporate Governance Principles	188
5.2.1 Good Corporate Governance	189
5.2.2 Taking Corrective Action for Public Listed Companies.....	192
5.2.3 Alignment with the Principles of the Malaysian Code of Corporate Governance	194
5.2.4 Develop and Implement Effective Corporate Disclosure Policies	196
5.2.5 The Extent of Compliance with the Corporate Governance	198
5.2.6 Enhancing Corporate Governance Practices	201
5.2.7 Ensure Accurate and Timely Disclosure	202
5.2.8 Board of Directors Function.....	205
5.2.9 The Board Responsible to Disclose Information in Annual Report.....	207
5.2.10 Ensure Appropriate Disclosure Policies.....	210
5.2.11 Disclose Personal Interest to the Company	213
5.3 The Law of Disclosure	215
5.3.1 Furnish Necessary Information of any Share Acquired or Held	215
5.3.2 Members should Inform the Company of Holds any Voting Shares	217

5.3.3 Disclose the Nature of the Interest	219
5.3.4 Directors Exercising their Duties Depend on information made by Professional Adviser	222
5.3.5 Directors Offer Notice in Writing of Shares, Debentures	224
5.3.6 Prompt Disclosure of Unfavorable Material Information	226
5.3.7 Confidential Matters	228
5.3.8 Equal Access to Material Information.....	230
5.3.9 Ensure Security Measures to Protect Information and Documents.....	233
5.4 Bursa Malaysia Listing Requirements	235
5.4.1 Comply with the Bursa Malaysia Listing Requirements.....	235
5.4.2 The Type of Information Disclosed to the Public	237
5.4.3 Treat all Shareholders Equally in Terms of Information	239
5.4.4 Directors and audit in Accessing to the Information.....	241
5.4.5 Release Material Information in Fullest Public Dissemination.....	243
5.4.6 Disclosure of Information Made on a Selective Basis	246
5.4.7 Disclose Material Information that Could Effect the Share Prices	248
5.4.8 Immediate Announcement to Bursa Malaysia	250
5.4.9 Activity that Mislead Investors or Cause Unwarranted Price	252
5.4.10 Annual Reports as a Basis for Making Decisions	254
5.4.11 Insider Trading	255
5.5 Conclusion.....	258

CHAPTER SIX BEST PRACTICE OF CORPORATE GOVERNANCE

AMONG PUBLIC LISTED COMPANIES.....262

6.1 Introduction	262
6.2 Overview of Best Practice.....	262
6.3 Best Practice Analysis.....	264
6.3.1 Directors	264
6.3.1.1 The Board of Directors	264
6.3.1.2 Chairman and Chief Executive Officer	266
6.3.1.3 Board Balance.....	269
6.3.1.4 Supply of Information	271
6.3.1.5 Appointment of the Board	273

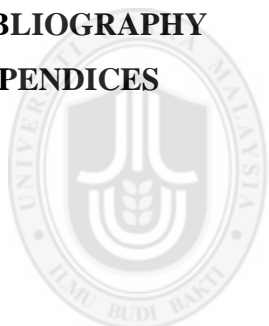
6.3.1.6 Board Performance	275
6.3.1.7 Disclosure of Information in Respect of Directors.....	277
6.3.1.8 Access to Information and Independent Advice.....	279
6.3.2 Directors Remuneration	281
6.3.2.1 Remuneration Procedure	282
6.3.2.2 The Level of Remuneration	284
6.3.2.3 Disclosure of Remuneration	286
6.3.3 Relation with Shareholders	288
6.3.3.1 Annual General Meetings (AGM).....	288
6.3.3.2 Communication with Shareholders	290
6.3.3.3 Major and Material Transactions.....	293
6.3.3.4 Declaration of Interest	295
6.3.4 Accountability and Audit	297
6.3.4.1 Financial Reporting	298
6.3.4.2 Internal Control.....	300
6.3.4.3 Audit Committee	302
6.3.4.4 Code of Ethics	304
6.3.4.5 Corporate Governance Disclosure.....	306
6.4 Conclusion.....	308

CHAPTER SEVEN THE AMENDMENTS OF THE NEW CORPORATE

GOVERNANCE PRINCIPLES 2017.....311

7.1 Introduction	311
7.2 The principles of MCCG 2017.....	312
7.2.1 Board Leadership and Effectiveness	312
7.2.1.1 Board Responsibilities.....	313
7.2.1.2 Board Composition.....	320
7.2.1.3 Remuneration.....	325
7.2.2 Effective Audit and Risk Management	328
7.2.2.1 Audit Committee	328
7.2.2.2 Risk Management and Internal Control Framework	332
7.2.3 Integrity in Corporate Reporting and Meaningful Relationship with Stakeholders	335

7.2.3.1 Communication with Stakeholders.....	335
7.2.3.2 Conduct of General Meetings.....	337
7.3 Conclusion.....	339
CHAPTER EIGHT CONCLUSION AND RECOMMENDATIONS	342
8.1 Introduction	342
8.2 Discussion	342
8.2.1 The Law of Disclosure	345
8.2.2 Disclosure of the CG Principles and BMLR among PLCs	350
8.2.3 Best Practice of Disclosure Policy among PLCs.....	353
8.3 Recommendations of the study	358
8.4 Suggestions for Future Research.....	362
8.5 Contributions to Knowledge	363
8.6 Conclusion.....	364
BIBLIOGRAPHY	367
APPENDICES	410



LIST OF TABLES

Table 3.3	Sector Representation of Public-Listed Companies	101
Table 4.2	The Principle of MCCG	114
Table 5.1	The Element of Good CG	190
Table 5.2	Corrective Action	192
Table 5.3	PLCs in Line with principles of MCCG	195
Table 5.4	Effective Corporate Disclosure Policies	197
Table 5.5	The Extent of Compliance with the CG	199
Table 5.6	Enhancing CG Practices	201
Table 5.7	Accurate and Timely Disclosure	204
Table 5.8	Board of Directors Function	206
Table 5.9	Board Responsibility to Disclose Information	208
Table 5.10	Appropriate Disclosure Policies	211
Table 5.11	Disclose Personal Interest to the Company	213
Table 5.13	Holds any Voting Shares	218
Table 5.14	Disclose the Interest in Contracts	220
Table 5.15	Information by professional adviser	222
Table 5.16	Offer Notice of Shares and Debentures	224
Table 5.17	Unfavorable Material Information	226
Table 5.18	Confidential Matters	229
Table 5.19	Equal Access to Information	231
Table 5.20	Ensure Security Measures to Protect Information	233
Table 5.21	Comply with the Listing Requirement	235
Table 5.22	Information disclosed to the public	237

Table 5.23	Treat Shareholders Equally in Information	240
Table 5.24	Access to Information	242
Table 5.25	Release Information in Public Dissemination	244
Table 5.26	Information is made on a Selective Basis	246
Table 5.27	Disclose Information that Effect the Share Prices	248
Table 5.28	Immediate announcement to BM	250
Table 5.29	Disclose the Activity that Mislead Investors	252
Table 5.30	Annual Reports as a Basis for Making Decisions	254
Table 5.31	Insider Trading	256
Table 5.32	Compliance with CG and BMLR	260
Table 6.1	The Board of Directors	265
Table 6.2	Chairman and Chief Executive Officer	267
Table 6.3	Board Balance	269
Table 6.4	Supply of Information	271
Table 6.6	Board Performance	275
Table 6.7	Disclosure of Information in Respect of Directors	278
Table 6.8	Access to Information and Independent Advice	280
Table 6.9	Remuneration Procedure	282
Table 6.10	The Level of Remuneration	284
Table 6.11	Disclosure of Remuneration	286
Table 6.12	Annual General Meetings	289
Table 6.13	Communication with Shareholder	291
Table 6.14	Material transaction	293
Table 6.15	Declaration of Interest	295

Table 6.16	Financial Reporting	298
Table 6.17	Internal Control	300
Table 6.18	Audit Committee	302
Table 6.19	The Code of Ethics	305
Table 6.20	Corporate Governance Disclosure	307
Table 6.21	Compliance with Best Practices	309
Table 7.1	Summary of findings	344
Table 7.2	The law of disclosure	346
Table 7.3	Disclosure of CG Principles and BMLR	351
Table 7.4	Best Practices among PLCs	354



LIST OF FIGURES

Figure 3.1: The research framework of corporate disclosure	92
Figure 3.2: The applications of Corporate Disclosure	97
Figure 4.1: The Law and Policy of Corporate Disclosure	112
Figure 4.4: The applicability of the CA with the MCCG	153
Figure 4.5: The applicability between the BMLR and MCCG.	161
Figure 4.6: Law and policy of corporate disclosure which applicable to the MCCG	184



TABLE OF CASES

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- f. Practice Note 17 (PN17)
- g. Practice Note 4 (PN4)
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LIST OF APPENDICES

Appendix A	Sector Representation of Public-Listed Companies	410
Appendix B	The Keywords of CG Among Companies Annual Reports	419
Appendix C	Keywords of Best Practice among Companies Guidelines and Annual Reports	421
Appendix D	Interview questionnaires to the regulatory authorities	422



LIST OF ABBREVIATIONS

CG	Corporate Governance
ACE	Access Certainty Efficiency
AGM	Annual General Meeting
PN 17	Practice Note 17
PN 4	Practice Note 4
BM	Bursa Malaysia
BMLR	Bursa Malaysia Listing Requirements
HLFC	High Level of Finance Committee
MICG	Malaysian Institute of Corporate Governance
MCCG	Malaysian Code of Corporate Governance
SC	Securities Commission
OECD	Organization for Economic Cooperation and Development
CEO	Chief Executive Officer
PLCs	Public Listed Companies
UK	United Kingdom
US	United States
CMSA	Capital Market and Service Act
WB	World Bank
MAICSA	Malaysian Institute of Chartered Secretaries and Administrators
ICSA	Institute Of Chartered Secretaries and Administrators
MMLR	Main Market Listing Requirements
CMP1	The Capital Market Master Plan 1

CMP2	The Capital Market Master Plan 2
IOSCO	International Organizations of Securities Commission
CA	Companies Act
SCA	Securities Commission Act
SIA	Securities Industry Act
UMA	Unusual Market Activity



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CHAPTER ONE

BACKGROUND OF THE STUDY

1.1 Introduction

Over the years poor corporate governance (CG) has been widely and frequently reported as a major factor that led to the 1997 Asian crisis including the recent global economic crisis in 2007-2008 and giant corporate scandals such as Enron, WorldCom, etc.¹ The World Bank claimed that poor CG within the Eastern Asian countries is attributed to a lack of an effective board of directors, inadequate internal control, unreliable financial statements, absence of sufficient information, poor compliance, and a lack of effective audit system. The challenges mentioned above have led to huge losses and poorly estimated liabilities. However, monitoring and control bodies (regulatory bodies) have failed to identify these weaknesses and develop corrective measures.²

Malaysia was also hard hit by the Asian economic crisis that impacted the region in 1997. Corporate sector weaknesses and poor CG were considered important causes

¹Nam, S-W.and Nam, C.I. "Corporate governance in Asia: Recent evidence from Indonesia, Republic of Korea, Malaysia and Thailand". *Asian Development Bank Institute*. (2004).

² World Bank "East Asia: The Road to Recovery". Oxford, UK: *Oxford University Press*. (1998).

of the crisis.³ The companies affected were in financial distress and had to seek protection under a bankruptcy protection plan known as Practice Note 17 (PN 17).

PN 17 introduced in Malaysia was a successor of another category known as the Practice Note 4 (PN 4). When a company is listed as a PN17 company, it must meet certain requirements (minimum capital or equity and companies' shareholders' funds are (less than 25% of their total paid-up capital) by the Bursa Malaysia (BM), failing which it is suspended from trading and face delisting procedures. To get out from the PN17 status, a company has first to complete the implementation of the approved regularising plan and prove to the authorities that they should not be listed as a PN17 company anymore by submitting proper documentations. PN 17 companies defined under paragraph 8.04 of BMLR as:

“The financial condition of a listed issuer on a consolidated basis must, in the opinion of the Exchange, warrant continued trading or listing on the Official List. The Exchange may prescribe certain criteria in relation to the financial condition of a listed issuer (“Prescribed Criteria”). When a listed issuer triggers any of the Prescribed Criteria (“PN17 Issuer”), it must comply with such requirements as may be prescribed by the Exchange, failing which the Exchange may suspend the trading of listed securities of such listed issuer or de-list it, or both”.

As a result of the advents of the meltdown, the government of Malaysia saw the need to keep the standard of CG in all companies to regain and resecure investors' interest

³Khatri, Y., Leruth, L., and Piesse, J. “Corporate Performance and Governance in Malaysia”, *IMF Working Paper* WP/02/152, *International Monetary Fund*, (2002).

and confidence.⁴ Therefore, in 1998, the Malaysian government initiated important programs resulting in the establishment of a High Level of Finance Committee (HLFC) on CG and the Malaysian Institute of Corporate Governance (MICG). These measures were put in place to ascertain that the country is ready to face the rapid changes in their capital market by addressing CG issues.⁵ Also, the commitment to enhance effective financial disclosure and sound policies meant to improve CG practices had led the formation of BM⁶ and Securities Commission (SC)⁷.

In February 1999, the HLFC which is one of the bodies guiding the activities of CG came up with a report on CG.⁸ This report formed a basis for the formulation of the Malaysian Code of Corporate Governance (MCCG).⁹ The argument in this report was to provide a benchmark of how the term CG should be defined and how it should be adapted to the Malaysian context¹⁰. In defining CG, the Code adopted some of the definitions provided by the Organization for Economic Cooperation and Development (OECD) and other relevant bodies:

⁴Abdul Rahman, R, N. Omar, F.M. Fahmi, A.M. Ismail, and M.H.C Haat. "The development of corporate governance ratings in Malaysia". *Institut penyelidikan, pembangunan & pengkomersilan. Universiti Teknologi Mara*, 40450 Shah Alam, (2007).

⁵ Allan Chang A. L., "The Way Forward—Review of Current Policy initiatives taken by the Malaysian Public Sector to address Corporate Governance Issues". *Conference paper: Universiti Brunei Darussalam*. (2004). Available at: <http://www.bruneresources.com/pdf/goodgovallanchang.pdf>

⁶ Liew, P. K "The (Perceived) Roles of Corporate Governance Reform in Malaysia: The Views of Corporate Practitioners". *University of Essex WP No. 06-02 April*, (2006).

⁷"Established on 1 March 1993 under the Securities Commission Act 1993, the SC is a self- funding statutory body with investigative and enforcement powers. It reports to the Minister of Finance and its accounts are tabled in the Parliament annually. The SC regulates and supervises market operators, market intermediaries, and all matters relating to securities, derivatives contracts, and unit trust schemes. The SC also registers prospectuses of corporations, approves corporate bond issues, and regulates corporate mergers and acquisitions. Underpinning all these functions is the SC's ultimate responsibility of protecting the investors. Apart from discharging its regulatory functions, the SC is also obliged by statute to encourage and promote the development of the securities and derivatives markets in Malaysia". www.sc.com.my.

⁸ High Level Finance Committee on Corporate Governance (HLFC) Report on Corporate Governance, Kuala Lumpur. (1999). <http://sc.com.my/html/publications/inhouse/cgreport/cgtoc.html>

⁹High Level Finance Committee on Corporate Governance, (HLFC). "Malaysian Code on Corporate Governance". Kuala Lumpur. (2000).

¹⁰ Kirkpatrick, Grant. "Improving corporate governance standards: The work of the OECD and the principles." *Organization for Economic Cooperation and Development, Paris, France* (2004).

“Corporate governance is the process and structure used to direct and manage the business and affairs of the company towards enhancing business prosperity and corporate accountability with the ultimate objective of realising long term shareholder value, whilst taking into account the interests of other stakeholders”.¹¹

The MCCG as an important code that sets the guidelines and standard practices for better CG. It is also responsible for making recommendations to strengthen the overall rules and regulations of public-listed companies (PLCs). In essence, the Code enhances CG monitoring and ensures that corporate participants are trained and educated on how to implement their suggestions.¹² PLCs are corporations whose securities or any securities are officially listed and not eliminated.¹³ The goal is to ensure sound CG and better disclosure.

Thus, disclosure is an essential element of a robust GC framework as they provide the base for informed decision-making by shareholders, stakeholders and potential investors in relation to capital allocation, corporate transactions and financial performance monitoring. The importance of transparency has been widely recognized by both academics and market regulators, resulting in numerous rules and regulations being introduced over time to ensure timely and reliable disclosure of financial information, creating standards to which companies must adhere¹⁴.

In order to ensure sound disclosure, BM has adopted most of the recommendations of the Code on CG to enhance the transparency of PLCs disclosure. The Code

¹¹HLFC, (1999). P1

¹² Shim, D. S. "Governance in the markets: Malaysian perspective". *Journal of Financial Crime* 13, no. 3 (2006): 300-322.

¹³ Malaysia, Bursa. "Listing Requirements of Bursa Malaysia Securities Berhad". Kuala Lumpur. (2006).

¹⁴ Fung, Benjamin. "The demand and need for transparency and disclosure in corporate governance." *Universal Journal of Management* 2, no. 2 (2014): 72-80.

became effective by revamping the listing requirements of the BM in January 2001. To enhance the transparency of PLCs in Malaysia, listed companies with a financial year ending after 30 June 2001 onwards is required to include in their annual report the statement of CG, a statement of internal control, the composition of the board of directors, the composition of audit committee, the quorum of audit committee, and any additional statements made by the board of directors. The mandatory reporting of compliance with the Code enables shareholders and the public to assess and determine the standards of CG by the listed companies.¹⁵ Therefore, transparency is defined as “openness and a willingness by the Company to provide clear information to shareholders and other stakeholders”¹⁶. To maintain objectivity in performing a business, the company provides a financial statement, investor information, and other materials or relevant information to the shareholders, stakeholders, and the public in a timely, adequately, accurately and clearly¹⁷.

Complying with the best practices is not mandatory. However, it is explicitly required that companies disclose their yearly reports, the degree to which they execute these duties as well as their degree of noncompliance. To ensure effective CG practices in Malaysia, the MCCG has adopted similar CG practices used in the United Kingdom (UK) to serve as a benchmark to the operations of their governance structures.¹⁸ The MCCG was revised in 2007. A new rule was announced making

¹⁵ Hua, Loh Leong, and Ragayah Haji Mat Zin. "Corporate governance: Theory and some insights into the Malaysian practices". *Akademika* 71, no. 1 (2007).

¹⁶ Fung, Benjamin. "The demand and need for transparency and disclosure in corporate governance." *Universal Journal of Management* 2, no. 2 (2014): 72-80.

¹⁷ Ibid

¹⁸ Wahab, E. A. A., How, J. C., & Verhoeven, P. "The Impact of the Malaysian Code on Corporate Governance: Compliance, Institutional Investors and Stock Performance". *Journal of Contemporary Accounting & Economics*, Vol. 3, No. 2, (2007). Available at: <http://ssrn.com/abstract=1058421>

compliance compulsory for all listed companies in BM.¹⁹ The Code was revised again in 2012 to ensure better CG practices as well as protecting the best interests of the shareholders.²⁰

Recently, a new MCCG 2017 was released to introduce substantial changes and recommendations to raise the standards of CG of Malaysian companies. The MCCG 2017 employs the CARE approach ('Comprehend, Apply and Report') by shifting from a 'comply or explain' to 'apply or explain an alternative' method. The amendment adopts a proportionate application to companies depending on size, complexity and suitability. Also, the Code expressly encourages non-listed entities including state-owned enterprises, SMEs and licensed intermediaries to enhance accountability, transparency and sustainability²¹.

The MCCG is designed to achieve two key goals. Firstly, it wants to encourage corporate bodies to make appropriate and timely provision of relevant information to investors to enhance decisions regarding investments. Secondly, it serves as a guide to directors of corporate bodies by specifically stating their responsibilities and providing certain ways and manners by which their control can be strengthened (MCCG, Part 1, paragraph 1.8).²² Disclosure involves or represents a series of information reporting. The nature of the financial information to be disclosed includes company annual reports, prospectus, interim reports, earnings announcement, press releases, and other corporate reports. In this regard, disclosure

¹⁹ Norazian, H and Radiah, O. "Code of Corporate Governance and Firm Performance". *British Journal of Economics, Finance and Management Sciences*, Vol. 6 (2). (2012). 2048-125

²⁰ The Malaysian Code on Corporate Governance, (MCCG). Finance Committee on Corporate Governance. (2002). Available at: <http://www.sc.com.my>.

²¹ Al-Absy, Mujeeb, Ku Ismail, Ku Nor Izah, and Sitraselvi Chandren. "Board Chairmen's Involvement in Audit Committees and Earnings Management Practices." (2017).

²² Wahab, E. A. A., How, J., & Verhoeven, P. "Corporate governance and institutional investors: Evidence from Malaysia". *Asian Academy of Management Journal of Accounting and Finance* 4 (2008): 67-90.

is defined as the act of releasing all relevant information pertaining to a company that may influence an investment decision. Disclosures are the most important element of not only the financial statements but also of the audit report and especially for the financial audit.²³

In the disclosure, two types of information are required, that is, quantitative and qualitative information. Consequently, the depth of the disclosure is required to determine the nature of the information required to be disclosed, that is, the information required by the law (compulsory) or as proclaimed by the management (voluntary). When information is mandatory, it implies that it is either qualitative or quantitative, and it is completely under the purview of the statutory laws (e.g. Companies Act 2016 (CA2016), Capital Market and Services Act 2007 (CMSA2007) or other rules like Bursa Malaysia Listing Requirements (BMLR). On the other hand, information is voluntary when it is not required by laws or regulations, but it is based on the discretion of the management of the organisation as this may help users to make decisions about a company.²⁴

BMLR reflects the relevance of information disclosure by listing companies contained in their framework of disclosure under the BMLR. Paragraph 9.03 of the BMLR imposes upon PLCs to disclose their information to public investors timely and frequently, and that the information is anticipated to influence price positively, enhance the value or market activity of PLCs securities, and to determine investor's decisions. Similarly, BMLR emphasises that all public information is to be

²³Cooke, I. E. "The Impact of Size, Stock Market Listing and Industry Type on Disclosure in the Annual Reports of Japanese Listed Corporations", *Accounting and Business Research*, Vol. 22, No. 87, (1992).

²⁴Abdul Rahman, A. B. "Disclosure of corporate financial information in Malaysia". Ph.D. thesis, University of Newcastle upon Tyne. (1998).

communicated by listed companies should be factual, not ambiguous, accurate, explicit, clear, detailed, and not unsatisfactory or confusing.²⁵

On the other hand, best practices are set out in the second part of the Code, and it outlines the guidelines that the companies are required to meet while complying with disclosure regulation or obligations under BMLR. The objectives are to assist the companies to make optimal disclosures and adhere to all relevant principles, laws, and other obligations in all impacts. It also gives exhortations to other participants like investors and auditors in the market²⁶. Also, MCCG provides sufficient information about best practices by making a clarification on the level and the best modes of operation.²⁷ A good practice is considered to mean all activities performed that can result in greater performance.²⁸ Good practices are directly related to a superior level of performance,²⁹ and this increases greater business profitability as well as a competitive strength.³⁰

Best practices compliance is voluntary for companies. However, it has been suggested that corporations should develop these practices in their disclosure policies to improve the image of the organisation and investors' confidence³¹. Also, effective procedures aid in sustaining companies, public reputation as well as the confidence of investors within BM. In adopting the practices, corporations should, however, be

²⁵Best practices in corporate disclosure. (2004). Available at: [http://www.sc.com my/eng/html/cg /pdf /BestPractices In CorporateDisclosures_bursaMalaysia.pdf](http://www.sc.com.my/eng/html/cg/pdf/BestPracticesInCorporateDisclosures_bursaMalaysia.pdf)

²⁶ Mohamad, Shamsher, and Zulkarnain Muhamad Sori. "Corporate Governance from a Global Perspective." (2011).

²⁷Wahab, et al. (2007).

²⁸Camp, R. C. "Benchmarking-The Search for Best Practices that Lead to Superior Performance." *Quality Progress* 22, no. 2 (1989): 70-75.

²⁹Davies, A. J., & Kochhar, A. K. "Manufacturing best practice and performance studies: a critique". *International Journal of Operations & Production Management* 22, no. 3 (2002): 289-305.

³⁰Voss C., Blackmon,K., Hanson,P. and Oak,B. "The competitiveness of European manufacturing- a four country study", *Business Strategy Review*, VOL. 6 NO.1. (1995).

³¹ Gunathilake, Walter. "Why do corporations accept voluntary codes on corporate governance and why is the acceptance so rapid among the corporations? A theoretical explanation." (2010).

flexible and should adapt them to suit their companies' purpose and needs. Companies must also pay attention to the spirit of the practices; the forms stated are not prescriptive that must be construed or rigidly followed. For a proper understanding, companies must read the guidelines and their accompanying explanatory notes and appendices thoroughly.³²

The Malaysian capital market occupies an important position in the region, and the establishment of rules and regulations that deal with the failure and crisis that may likely happen in the nearest future is needed. Therefore, some regulations related to CG, transparency, and proper disclosure to bring back the interest and confidence of both local and international investors' confidence are necessary. However, a major disparity between the MCCG and BMLR is that the MCCG allows PLCs to disclose (voluntary) their corporate information in their best practices and with flexible guidelines to operate.³³ On the other hand BMLR stated that it is compulsory for all PLCs to disclose their performance level in their annual reports.³⁴ The Capital Markets and Services Act 2007 (CMSA) in sections 11 (4) states that "It shall be the duty of the exchange to take appropriate action as may be provided for under its rules for the purpose of monitoring or securing compliance with such rules" that BMLR is a law.³⁵

Given the above discussions, the study clarifies the role of companies in implementing the disclosure policies of BMLR. It also seeks to understand how MCCG can enhance and improve disclosure policy and best practices of PLCs.

³²Best practices in corporate disclosure. (2004).

³³ONG, Wei Jiin. "Corporate Governance Disclosure in Malaysia". PhD *dissertation*. University of Nottingham, (2006).

³⁴Bursa Malaysia "Regulatory-Driven Sustainability Reporting" Monday, 18 November, (2013). Available at: http://ablemen.com/sustainability/lock/reporting_regulatory.php?index=9

³⁵ Section 8 and 11 of CMSA (2007)

1.2 Problem Statement

Given the current financial developments and investors needed of material information, the area of CG has gained considerable attention by researchers. Even though there have been many studies covering this topic, the focus of each of these studies differed. Some of the past studies have extensively debated on the importance of corporate disclosure and performance reporting in Malaysia³⁶ with the bulk of the studies looking at voluntary disclosure and CG among financially distressed firms in Malaysia³⁷. However, the requirements of disclosure among Malaysian PLCs have not been fully studied. This present study aims to investigate the application of disclosure law, principles and policy among PLCs in Malaysia. Thus, this study has three questions to answer. Firstly, what are the legal issues in enforcing the disclosure policy of CG implemented by PLCs? Secondly, to what extent PLCs comply with the disclosure policy of BMLR? Finally, what is the implementation of best practice and CG of the Malaysian PLCs?

Poor CG, a loss of investor confidence and a lack of effective disclosure transparency framework in the majority of capital markets and companies have been partly blamed for the Asian crisis in 1997, corporate scandals (Enron, Worldcom, etc.) and the global economic crisis in 2008³⁸. Among the weaknesses identified include weak financial structure of many companies, over-leveraging, lack of transparency in disclosure and accountability and little or no effective laws to ensure that controlling shareholders and management treat small investors fairly and

³⁶ Smith, Malcolm, Khadijah Yahya, and Ahmad Marzuki Amiruddin. "Environmental disclosure and performance reporting in Malaysia." *Asian Review of Accounting* 15, no. 2 (2007): 185-199.,

³⁷ Nasir, Norita Mohd, and Shamsul-Nahar Abdullah. "Voluntary disclosure and corporate governance among financially distressed firms in Malaysia." *Financial Reporting, Regulation and Governance* 3, no. 1 (2004): 1-39.

³⁸ Godfrey, S. "Benchmarks and Indicators for Corporate Governance: A private sector perspective". *African Security Review*, 11, no. 4. (2002): 25-29.

equitably³⁹. Consequently, many countries across the globe have been actively reviewing and improving their regulatory framework, in particular CG and transparency mechanisms. In Malaysia, because of this crisis, the government decided to improve policies so that the economy could be improved and to bolster investor confidence in the capital market⁴⁰.

CG issue becomes an attractive issue for researchers in the late 1990s following the Asian financial crises⁴¹. According to agency theory, a good CG system is necessary for more transparent information disclosure about the corporation, particularly in the annual reports which are the main sources of information provided to investors. However, the effective functioning of capital markets depends on how information is shared among the participants⁴². Some companies disclose the information that is stipulated by local governance regulations, but there may be costs and benefits for disclosing additional financial information. By increasing the amount of information that companies release to the public, the companies can lower their capital costs, gain investor confidence, and improve the marketability of shares⁴³. In line with the lack of effective CG framework, this study aimed to analyse the corporate disclosure requirements among the Malaysian regulations either voluntary (MCCG) or mandatory (CMSA, CA and BMLR), since there have been not many studies in disclosure requirements among PLCs in Malaysia that analyse the legal issues in enforcing disclosure principles which are applicable to PLCs. It is necessary to

³⁹ Khoo, Yeang. "Corporate governance in Malaysia." *Review of Corporate Governance in Asia* (2003).

⁴⁰ Jeon, Bang Nam. "From the 1997-97 Asian Financial Crisis to the 2008-09 Global Economic Crisis: Lessons from Korea's Experience." *E. Asia L. Rev.* 5 (2010): 103.

⁴¹ Cheung and Chan "Corporate governance in Asia", *Asia-Pacific Development Journal*, (2004), 1-31.

⁴² Ho and Wong "A Study of the Relationship Between Corporate Governance Structures and the Extent of Voluntary Disclosure", *Journal of International Accounting*, 10, 139-156. (2001)

⁴³ Kristandl, G., and Bontis, N "The Impact of Voluntary Disclosure on Cost of Equity Capital Estimates in a Temporal Setting". *Journal of Intellectual Capital*. 8(4), 577-594. (2007).

explore the development of corporate disclosure given the new policies, rules, standards setters and CG practices.

According to Mohamad (2002), bad CG, poor relationship with investors, weak information disclosure by listed companies on the BM, and regulatory institutions ineffectiveness to enforce and penalise offenders as well as safeguarding minority shareholders, have to some extent contributed to the collapse of several Malaysian companies.⁴⁴ When these companies fail to comply with the requirements of the BM, they are classified under PN17 Companies. With regard to BMLR, a listed company that is financially distressed or does not have a core business or has failed to meet minimum capital or equity and whose shareholders' funds is less than 25% of its total paid-up capital is classified as a PN17 Company.

Mohammed⁴⁵ stated that there are companies that were classified under the PN 17 list as early as the year 2005 that failed to resolve their financial problems. Among such companies are also those that were warned for the lack of disclosure of data or to reconsider their regularisation plans. Companies that continue to be unable to regularize had also led to their delisting from the listing under BM ⁴⁶. For instance, on 25 Feb 2010, BM announced that VTI Vintage Berhad (VVB) was an affected listed issuer pursuant to the Practice Note 17 ("PN17") of the Main Market Listing Requirements (MMLR) of BM when the company triggered Paragraph 2.1 (a) of the PN17. On 9 September 2010, the board of directors of VVB announced that the company had proposed a regularisation plan, which was rejected by BM. As a result,

⁴⁴Mohamad, N, "Corporate Governance in Malaysia". Ph.D. dissertation, Birmingham: *university of Birmingham*, (2002).

⁴⁵ Mohammed, A. A. E. (2012). Financial situation of PN17 companies listed in the Malaysian stock exchange (Doctoral dissertation, Universiti Tun Hussein Onn Malaysia).

⁴⁶ Ibid

the company was forced to have an extension time to submit its regularisation plan pursuant to PN17 of the listing requirements. The BM approved the VVB's application for an extension time to submit its regularisation plan until 24 April 2011. On 2 April 2012, the BM had rejected the company's proposed regularisation plan which was submitted on 22 April 2011 pursuant to Rule 8.04(5) of the BM. On 3 April 2012, BM clarified that the imposition of suspension and delisting against the company were made pursuant to paragraph 8.04(5) MMLR of the BM.⁴⁷

Others⁴⁸ commented that a lack of CG standards and transparency in the financial system resulted in the decline of investor confidence in Malaysia⁴⁹. As explained by Broni and Velentzas, CG is the process, system, custom, law, and policy that will have an impact on how a corporate or company is regulated and controlled. The principles of OECD further explicate that CG involves a number of relationships between the management level of a company and all shareholders, the board of directors, and stakeholders as well as those that have interests in the company. That is, CG presents a general rule for deciding the objectives of a company⁵⁰. Also, the Asian meltdown led to a loss of investor panic in the Malaysian market due to poor monitoring of their financial system, ineffective transparency, and CG deficiencies.⁵¹ However, Rahman stressed that ineffective disclosure may not necessarily be the

⁴⁷http://www.bursamalaysia.com/market/listedcompanies/companyannouncements/#/?category=all&sub_category=all&alphabetical=All&company=7595

⁴⁸Noordin, H. "Strengthening the Audit Mechanism". Akauntan Nasional, April 24. (1999).

⁴⁹ Sallehuddin, Mohd Rashdan. "The Impact of Corporate Governance on Voluntary Disclosure among Public-Listed Companies in Malaysia." *e-Academia Journal* 5, no. 2 (2016).

⁵⁰ Broni, Georgia, and John Velentzas. "Corporate Governance, Control and Individualism as a Definition of Business Success. The Idea of a "Post-Heroic" Leadership." *Procedia Economics and Finance* 1 (2012): 61-70.

⁵¹Zainuddin, D. "The Economic Crisis in Malaysia and the Role of the Media". July 22, Kuala Lumpur, Malaysia. (1998).

main factor that pushed the crisis; rather it has to a large extent increased its depth as well as breadth.⁵²

The above discussion has highlighted the need to retain standards in CG, strengthen transparency, enhance investor relationship, and effectively enforce legislation on CG by regulatory bodies (SC, BM. etc.).⁵³ In the same vein, researchers have also affirmed that real CG challenges in Malaysia were attributed to the weak compliance and enforcement leading to the absence of professional regulations. Unsuccessful application as well as implementation of CG regulations frequently increases shareholder uncertainty, causing reasonable fund withdrawal by investors in the Malaysian markets following the crisis.⁵⁴ According to Osaze , the whole essence of CG is to assure transparency, investor protection, the full disclosure of executive actions and corporate activities to stakeholders, environmental impact assessment of corporate activities, assurance of performance related to executive compensation, and full disclosure of executive compensation.

In identifying the reason for sound CG, leading to greater quality of disclosure, Mitton lamented in Eastern Asia that,

“Companies that offered higher disclosure quality, greater transparency, a more favourable ownership structure, and a more focused organization appears to have provided greater protection to their minority shareholders during the East Asian financial crisis”.⁵⁵

⁵²Rahman, M., “The role of accounting in the East Asian financial crisis: lessons learned?” *Transnational Corporations* 7, 1–51. (1998).

⁵³Abdul Rahman, et al. (2007).

⁵⁴ Liew, P. K. (2006).

⁵⁵Mitton, T. (2002). P5

However, to contain high-quality disclosure, every company must find ways to mitigate financial statement fraud by finding alternative improvements in governance to reduce financial statement fraud cases. Transparency of financial reporting and accountability of company management towards financial statement fraud control are two important principles that help reduce financial statement fraud in all organisations. As previous financial scandals have established, a lack of transparency and accountability create the incentive for top management to commit fraud.⁵⁶

Also, many researchers have emphasised the significance of disclosure in the yearly reports for all investors. Also, the value of the company information disclosed in the report frequently affects the range as well as the quality of investment resolutions that has been made by the investors.⁵⁷ The reports are usually considered a significant means to prove the innocence duty in the government as well as companies, which means that sectors can advance investors' conceptions of their liability. Annual reports were known as the annual reporting behaviour of a corporation, and they have the ability to improve the perceptions of accountability among stakeholders and the wider community.⁵⁸ However, the yearly reports had been used as an intermediary information (quantitative as well as qualitative) in order to contact with the investors and other shareholders.⁵⁹

⁵⁶ Gilsinan, James F., et al. "The role of private sector organizations in the control and policing of serious financial crime and abuse." *Journal of Financial Crime* 15, no. 2 (2008): 111-123.

⁵⁷ Singhvi, S. S., & Desai, H. B. "An empirical analysis of the quality of corporate financial disclosure". *The Accounting Review*. 46, no. 1. (1971): 129-138.

⁵⁸ Flack, E. D. "The role of annual reports in a system of accountability for public fundraising charities". (2007).

⁵⁹ Al-Shammari, B., Brown, P., & Tarca, A. "An investigation of compliance with international accounting standards by listed companies in the Gulf Co-Operation Council member states". *The International Journal of Accounting* 43, no.4. (2008):425-447.

According to Yusoff ⁶⁰ and Yuen et al., annual reports have provided inadequate information to users. They concluded that the available information on the performance of companies' annual reports is poor, and the financial information required by different types of users is different. However, Hooks⁶¹ found that in actuality many annual reports introduce a limited amount of information. A lot of voluntary items, which stakeholders believe to be important or even essential, are not being disclosed in the actual annual reports. Therefore, the agreement between the importance of relative items ranked by stakeholders and the actual disclosure level was small, and there is an opportunity for expanding the extent and improving the quality of voluntary disclosure information in annual reports of listed companies. Others⁶² argued that many items were inadequately disclosed and there was a gap between the users' needs of information and the actual information supplied by the companies' annual report. Others stated that voluntary disclosure information in annual reports has increased.⁶³

Using data on Malaysian PLCs, a study by Ghazali ⁶⁴ identified agency theory factors associated with voluntary disclosure, it examined whether the government reforms increase the disclosure as an instrument of CG and so decreases the effect of the board's domination of family corporations on non-compulsory disclosure. it concluded that the implementation of CG after the economic crisis did not

⁶⁰ Yusoff, Noor Haslina, and Mustafa Mohd Hanefah. "Malaysian institutional investors' annual reports information needs." *Malaysian Management Journal* 1, no. 2 (1995): 41-49.

⁶¹ Hooks, Jill, David Coy, and Howard Davey. "The information gap in annual reports." *Accounting, Auditing & Accountability Journal* 15, no. 4 (2002): 501-522.

⁶² Buzby, S.L. "Selected items of information and their disclosure in annual reports". *The Accounting Review*, 49:3, 423-435. (1974).

⁶³ Ryan, J.B. "New Zealand Company Financial Reporting". University of Auckland, (1990).

⁶⁴ Ghazali, Nazli A. Mohd, and Pauline Weetman. "Perpetuating traditional influences: Voluntary disclosure in Malaysia following the economic crisis." *Journal of International Accounting, Auditing and Taxation* 15, no. 2 (2006): 226-248. e economic crisis." *Journal of International Accounting, Auditing and Taxation* 15, no. 2 (2006): 226-248.

substantially increase voluntary disclosure practices of Malaysian companies as compared to previous disclosure studies in Malaysia, Singapore, and Hong Kong.⁶⁵ Hence, this research intended to examine the trend of the applications of CG principles, law of disclosure and the requirements of BM among PLCs through analysing the annual reports of the selected companies over a period of 3 years to examine whether disclosing the information in the annual reports are in line with the regulatory guidelines and also the requirements of the various regulatory bodies in Malaysia following the collapses in the last two decades.

Moreover, a discussion on securities regulation cannot divorce itself from the disclosure provisions, CG, and the use of best practices to avoid breaches of these regulations or to enforce these insider-trading provisions⁶⁶. Therefore, MCCG implemented the best practice code by PLCs in 2001, which was an effective measure in the wake of the 1997 Asian crisis. In this Code, the board of directors provides additional provisions to the shareholders as well as other investors of the companies because it serves as an effective monitoring mechanism to reduce the agency conflict. The Code imposes more stringent monitoring by shareholders by increasing involvement and the power of the board of directors in the company's decision-making.⁶⁷ To the extent that CG is not binding, companies' decision to adopt the code of best practices must be supported by prudential justification in the HLFC on CG.⁶⁸

⁶⁵ Ibid

⁶⁶ Choong et al. "Doctrine of corporate governance and competition laws: The Malaysian perspectives." *African Journal of Business Management* 4, no. 6 (2010): 1175.

⁶⁷ Saad, N. M. "Corporate Governance Compliance and the Effects to Capital Structure in Malaysia". *Journal of Economics and Finance*, February, Universiti Tenaga Nasional. (2010).

⁶⁸ HLFC, (1999). P1

Best practices are made up of two elements: secretarial practices and voluntary disclosures. In this study, secretarial practices refer to the recommended best practices developed by the Malaysian Institute of Chartered Secretaries and Administrators (MAICSA) and the Institute of Chartered Secretaries and Administrators (ICSA, UK). Best practices in meetings are based on a series of good governance guides and guidance notes prepared by MAICSA and ICSA with the aim to help the company comply with applicable legislations especially on grey areas not covered by legislation and case law.⁶⁹

Another element of best practices is voluntary disclosure. Consistent with the spirit of good governance, a company should disclose as much information when it is necessary and crucial for shareholders and stakeholders to understand the conduct of the business. This is also an opportunity and a good option for the company to show its credibility of the disclosures in compliance with sound CG that is beyond the regulatory requirements.⁷⁰ This study aimed to analyse best practices in making adequate disclosure of material information through companies' internal policies (annual reports, guidelines, companies profile, and board charter) as well as international codes of best practices to examine whether best practices and internal processes help companies to inspire disclosure and transparency in addition to boosting the public image of such company and maintain investors' confidence.

Finally, corporate failures and misconducts affect investor confidence, prompting questions as what needs to be done to prevent such events from happening again to restore it. It has been suggested that the answer to these questions is linked with

⁶⁹ HLFC, (1999). P1

⁷⁰ Allen, et al. (2004). P1

CG.⁷¹ Thus, this study investigated the usefulness of the application of CG and disclosure requirements among PLCs in Malaysia. Most of the previous studies have been conducted in developed countries with a perfect market. The development of the laws and CG codes in Malaysia has led to the study on the disclosure requirements and best practices. It is expected that improvement in the laws and CG practices would increase the level of disclosure, which in turn can give rise to uncertainty. The demand and need for adequate transparency, disclosure and suitable corporate financial reporting are essential to investors to make better decisions on a more timely and informed basis.

1.3 Research Questions

On the basis of the above issues, this study develops the following research questions:

1. What are the legal issues and problems in enforcing the disclosure policy of CG and BMLR?
2. To what extent the PLCs comply with the principle of CG which is related to disclosure policy?
3. To what extent the PLCs comply with the disclosure policy of BMLR?
4. To what extent the best practice of PLCs has adopted the disclosure policy and principles of Malaysian CG?
5. How to improve the disclosure policies, law and its enforcement?

⁷¹ Ibid

1.4 Research Objectives

This research is aimed to accomplish the following objectives:

1. To analyse the law and policy of corporate disclosure which are applicable to PLCs.
2. To inquire the application of the CG principles and BMLR among PLCs.
3. To analyse the best practice of disclosure policy amongst PLCs.
4. To suggest the improvements of disclosure policies and the law of PLCs in Malaysia.

1.5 Significance of the Study

The findings of this research are of immense benefit to investors, regulatory bodies, scholars as well as relevant stakeholders in understanding the role of good CG in restoring investor confidence. There is a broadly held view that better CG is associated with a better disclosure policy. The study also provides a better understanding of the impact of CG practices on corporate performance of listed companies in Malaysia, thereby enhancing the best practice of the corporate sector⁷².

This study is helpful to financial specialists, entrepreneurs, businesspersons as well as the entire legal community in Malaysia by specifying how successful policy disclosure among PLCs could enhance investor's equity.

Also, this study can help the regulatory bodies to understand the weakness in the MCCG and BMLR in addressing the disclosure of material information, and this can

⁷² Fung, Benjamin. "The demand and need for transparency and disclosure in corporate governance." *Universal Journal of Management* 2, no. 2 (2014): 72-80.

guide the regulators to establish a special law of disclosure of information⁷³. It also showed the relevance of disclosure to enhance the value or market activity of PLC securities and to assist investors in making an informed decision whether to invest or not in accordance to the MCCG. Even the BMLR emphasises that all public information communicated by listed companies should be factual, not ambiguous, accurate, explicit, clear, detailed, and not unsatisfactory or confusing for the investors to maintain a strong relationship with the shareholders and the companies. In this regard, the regulatory bodies need to develop comprehensive rules for disclosing of information and set out strict penalties for the companies that fail to comply with such rules⁷⁴.

Moreover, the study is beneficial for investors by providing guidelines in term of the best practice policy. Also, employees and stakeholders can have a comprehensive understanding of their legal requirement disclosures⁷⁵.

This study also helps governance practitioners to strengthen the effectiveness of corporate disclosure aimed at protecting investors⁷⁶. Also, this study can be considered as the key source for the regulators to enhance the standard of CG practices by recommending to companies to adhere the requirements of BM. These CG practices could potentially boost the economy of Malaysia.

⁷³ Chang, Chen-Yu, Hui-Yu Chou, and Ming-Teh Wang. "Characterizing the corporate governance of UK listed construction companies." *Construction Management and Economics* 24, no.6(2006): 647-656.

⁷⁴ Schacht, Kurt, James C. Allen, and Matthew Orsagh. "The Corporate Governance of Listed Companies: A Manual for Investors." (2009): 1-51.

⁷⁵ Lemmon, Michael L., and Karl V. Lins. "Ownership structure, corporate governance, and firm value: Evidence from the East Asian financial crisis." *The journal of finance* 58, no. 4 (2003): 1445-1468.

⁷⁶ Marashdeh, Zyad Mohammad Saad. "The effect of corporate governance on firm performance in Jordan." PhD diss., University of Central Lancashire, 2014.

Finally, this study contributes to the existing literature by investigating the disclosure of accurate and timely material information to the public so that companies could improve their performance, uphold investors' trust, and establish a strong relationship with the shareholders⁷⁷. Furthermore, the findings of this study are useful to enhance the procedure of disclosure policy and best practices in Malaysia and are an access point to understanding the nexus between MCCG and BMLR.

1.6 Limitations of the Study

The findings of the study provide evidence of the application of disclosure principles and policy to maintain the capital market as a whole and restore investor confidence. However, the researcher must note some limitations of the study that should be taken into account when considering the conclusions that can be drawn.

The first limitation, the data covered only a four-year period between 2012 and 2015; the specific years are selected as the period during the Malaysia Plan 2 and the new amendments of the MCCG 2012. This study can be improved by analysing a longer period. It is recommended that financial data covering over 20 years would be reliable. It cannot be denied that the longer period of research can provide more accurate results as there are possible numbers of changeable cases that can be used to investigate the determinants of disclosure of information, CG practices and companies performance.

The Second limitation, the findings are based on Malaysian regulations such as MCCG, BMLR, and CA only without focusing on emerging markets in the Asian

⁷⁷ Ooi, Kai Yong. "An investigation into CG Principles and Firm Performance." *PhD diss., UTAR*, (2017).

countries. More attention is needed to disclosure due to the lack of studies in developing countries in general and in the Asian countries in particular.

The third limitation is the specific companies and the bodies that this study has conducted. The samples were only taken from PLCs that have been chosen randomly and several regulatory bodies in Malaysia. Thus the sample cannot be the represent of the rest of the population. Other companies such as private limited company and family companies might show different results from the samples that chosen.

The fourth limitation is the data used. The data only focused on companies' annual reports and not half-yearly and quarterly reports because the analysis of annual reports to come out with the CG and disclosure reporting score to save time, especially in ensuring its reliability and consistency. Other data such as half-yearly reports and quarterly reports might show different results.

Finally, one of the main objectives of this study was to provide a clear picture of the regulations and structure of corporate disclosure in Malaysia. As such, the findings are confined to the Malaysian market only other market might show different results.

1.7 Outline of the Chapters

Chapter one introduces the background of the research. Also it presents the problem statement. The research objectives, questions, the scope of the study as well as the significance are altogether offered in Chapter one.

In chapter two it delivers a development of the issue in CG disclosure with special focus on literature review which include the concept of CG, the progress and

development of CG in Malaysia, the Malaysian capital market master plan 1 and 2 and the importance of CG and disclosure. Followed by CG and disclosure theories, CG quality and voluntary disclosure, disclosure policy in Malaysia and transparency in financial reporting. Finally, the best practices in Malaysia.

Chapter three mainly discusses issues regarding the methodology of the study. It gives a detailed description of the implementation of disclosure policy in each the code of CG and BMLR among PLCs. Thus, the study applies qualitative research in accordance with library data considered as a main source of data collection. However, the chapter introduces the research framework, followed by the research design, population and sample, type of data, data collection methods and finally the analysis of data.

Chapter four discusses the findings of the study. The finding is a preliminary step to the final answer of the law and policy of corporate disclosure which applicable to PLCs. It is analyzing the principle of MCCG which includes; establish clear roles and responsibilities, strengthen composition, reinforce independence, foster commitment, uphold integrity in financial reporting, recognise and manage risks, ensure timely and high quality disclosure and strengthen relationship between company and shareholders. Followed by disclosure policies of the Capital Market and Services Act 2007 which comprised; power of Securities Commission, offences, privileges communications, disclosure to Securities Commission and disclosure of trading in contracts. Then the chapter discusses the disclosure principle of Companies Act 2016 which includes; power of the company to require disclosure, disclosure of interests, protection the officers who make disclosures. Finally it

analyse the provisions of BMLR which consist; corporate disclosure policy, immediate disclosure of material information, thorough public dissemination, clarification, confirmation or denial of rumours or reports, unusual market activity, promotional disclosure activity and content and preparation of a public announcement.

Chapter five discusses and examines the application of CG principles and BMLR amongst PLCs. It introduces the CG analysis which includes; the CG principles, the law of disclosure and listing requirements of BM and ended by summary of the chapter.

Chapter six analyses and discusses the best practice of CG. It introduces an overview of best practice. In addition, the analysis of best practice which include directors, directors remuneration, relation with shareholders and accountability and audit. Finally it discusses a summary of the chapter.

Chapter Seven suggests the improvements of disclosure policies and the law of PLCs in Malaysia. It started by an introduction, summary of the findings, recommendations, limitations of the study and suggestions for future research and summary of the chapter.

CHAPTER TWO

LITERATURE REVIEW

2.1 Introduction

This chapter reviews the prior literature on CG disclosure in Malaysia. This chapter is divided into nine main sections. First, the concept of CG is explained. Second, the development of CG is reviewed. Third, the importance of CG and disclosure is discussed. Fourth, CG theories are elaborated. Fifth, CG quality and voluntary disclosure are presented. Sixth, the disclosure policy in Malaysia is highlighted. Seventh, transparency in financial reporting is outlined. Eighth, corporate disclosure trend in Malaysia is exposed. Finally, best practices in Malaysia are elucidated.

2.2 The Concept of Corporate Governance

The term ‘governance’ as is well known originated from the Latin word ‘gubernare’, which means ‘to rule or to steer’⁷⁸. CG put simply means the act of governing companies to protect the interests of shareholders. CG is of critical importance not only to companies' directors who are interested in knowing the level of their companies' governance structure and compliance with best practices and regulations but to inform participants who are keenly interested in the governance risks associated with companies. The separation of ownership and control has led to the

⁷⁸ Tricker, R. I. “Corporate governance: Practices, procedures, and powers in British companies and their boards of directors”. Aldershot: Gower, (1984).

selection of appropriate governance mechanisms to ensure an efficient alignment of interests for principals (e.g., shareholders/board of directors) and agents (top managers)⁷⁹. CG from a straight-forward agency perspective deals with the ways investors ensure that they get their investment back from managers. The agency theory concerns the principal-agent problem in the separation of ownership and control of a company and addresses the potential for agency problems. Contracts signed between the shareholders and give the latter substantial residual control rights that create opportunities for them to expropriate the shareholders' funds⁸⁰.

Also, the phrase 'corporate governance' is often used, but yet lacks a precise definition⁸¹. Most of the definitions focus on the structure and the function of the board of directors or the rights and prerogatives of any shareholders in boardroom decision-making. In Malaysia the HLFC Report on GC (2002) defines CG as

“the process and structure used to direct and manage the business and affairs of the company towards enhancing business prosperity and corporate accountability with the ultimate objective of realising long-term shareholder value while taking into account the interest of other stakeholders”⁸².

From these definitions, CG mainly focuses on the process used to direct and manage the business and affairs of the company with the objectives of striking a balance on the attainment of the company's objectives and the alignment of corporate behavior to meet the expectations of shareholders and accountability and good stewardship,

⁷⁹ Keuleneer, Luc, and Willem Verhoog, eds. *Recent trends in valuation: from strategy to value*. John Wiley & Sons, 2005.

⁸⁰ Shleifer, Andrei, and Robert W. Vishny. "A survey of corporate governance". *The journal of finance*, 52, no. 2 (1997):737-783.

⁸¹ Low Chee Keong (Ed.). "Corporate governance in Malaysia. In *Financial markets in Malaysia*". *Kuala Lumpur: Malayan Law Journal*. (2000).

⁸² Lee Leok Soon. "Misgovernance – Who is to be blamed". *Smart Investors*, 40–43. (2003).

taking into consideration the interests of shareholders, stakeholders, corporate participants and society at large⁸³.

However, CG as a term came to limelight during Anglo-American market systems of the corporate structure. In line with this also, only very few scholars and professional bodies and practitioners know little about the term and could explain the way it is applicable in the corporate setting.⁸⁴

The term CG is explained as a systematic process through which corporate organisations are supervised, directed and controlled to ensure that the directors of the organisations are accountable to the shareholders. The CG, therefore, is a complete guide to the legal and regulatory structure which governs the actions, internal policies, and controls that the companies establish. The primary aim of CG is to ensure that members of the board, as well as management, behave in the best interest of entire shareholders.⁸⁵

But the term CG has also been subjected to some considerable debate.⁸⁶ For instance, various studies in their argument seem to conclude that the term CG can be viewed from different perspectives as no definite or specific definition can be given⁸⁷ even though several authors have considered specific definitions of CG.⁸⁸ One of the popular definitions of CG was given as the system by which companies are

⁸³ Nor Azizah Z. A., Halimah, Nasibah A " Corporate Governance in Malaysia: The Effect of Corporate Reforms and State Business Relation in Malaysia" *Asian Academy of Management Journal*, Vol. 12, No. 1, 23–34,(2007)

⁸⁴ O'Regan, P. (2001). P5

⁸⁵ Cadbury. "Committee on the Financial Aspects of Corporate Governance". *The Report of the Committee on the Financial Aspects*. London: Ge&Co, (1992).

⁸⁶ Ryan, C., & Ng, C. "Public sector corporate governance disclosures: an examination of annual reporting practices in Queensland". *Australian Journal of Public Administration*, 59, no2.(2000):11-23.

⁸⁷ Solomon, Jill. "Corporate governance and accountability". Wiley, (2011).

⁸⁸ Donaldson, T., & Preston, L. E. "The stakeholder theory of the corporation: Concepts, evidence, and implications". *Academy of management Review* 20, no. 1 (1995): 65-91

- Shleifer, Andrei, and Robert W. Vishny. (1997)

controlled and directed.⁸⁹ Put it differently, “CG is considered the supervision of the accountability of company directors to deliver monitoring for the objectives and policies of the corporation as well as to enhance their enforcement”.⁹⁰ The board of directors is presumed to perform the monitoring role on behalf of the shareholders⁹¹. It is also their responsibility to lead and direct the company to achieve corporate goals by closely monitoring management activity so that the interest of the shareholders is well protected.⁹²

Although boards of directors often play a key role in CG, the audit committee is regarded as another actor and mechanism in CG process that also influences the integrity of financial reporting. Audit committees are expected to monitor the company’s financial reporting processes, including preventing fraudulent financial reporting, as they are likely to influence the companies’ approach to financial reporting and compliance with legal and ethical standards.⁹³ The audit committee is responsible for overseeing the financial reporting process and being aware of the financial reporting risk as well as communicating with the internal and external auditor. Audit committees possess the authority to communicate with external auditor regarding the appointment, compensation, evaluation and retention to ensure the independence, accountability and effectiveness of external auditor in the financial

⁸⁹ Cadbury, (1992).

⁹⁰ Cornelius, P. "Good corporate practices in poor corporate governance systems: Some evidence from the Global Competitiveness Report". *Corporate Governance* 5, no. 3 (2005): 12-23.

⁹¹ John, K. and Senbet, L.W. "Corporate governance and board effectiveness". *Journal of Banking & Finance*, 22. 371-403. (1998).

⁹² Abdullah, S.N. "Board Composition, CEO Duality and Performance among Malaysian Listed Companies". *Journal of Corporate Governance*, Issue 4, p. 47-61. (2004).

⁹³ Turley, S. and M. Zaman "The Corporate Governance Effects of Audit Committees", *Journal of Management and Governance*, Vol. 8, pp. 305-32. (2004),

reporting process. The competent auditors will increase investor's confidence toward financial reporting and make a wise investment decision.⁹⁴

As a result of the popularity gained by CG in the business establishments, respective organisations including educational institutes, government establishments, and professional bodies have started paying attention to the issue of 'governance', therefore, ascribing a certain meaning to it⁹⁵. Consequently, CG from these perspectives is seen as the systems that are adopted by the directors of organisations to direct and control their organisations and ensure probity in their operations through the board of the companies.⁹⁶ One of the commonly used definitions of CG is made by popular by the OECD, which states that CG is the system by which business corporations are directed and controlled. The CG structure specifies how rights and responsibilities among managers, the board members, shareholders, and other stakeholders can be distributed. It also states clearly the procedures and rules which should be followed when making corporate affairs decisions as well as provides a certain structure which forms the foundations for companies to form their objectives and the ways the objectives shall be achieved while performance is monitored.⁹⁷

In 2004 OECD updated its definitions of CG. It defined CG as a set of relationships between a company's board of directors, its management, its shareholders as well as other relevant stakeholders. CG provides a mechanism in which organisational goals

⁹⁴ Akhtaruddin, M and Haron, H "Board ownership, audit committees' effectiveness and corporate voluntary disclosures". *Review of Accounting*, 18, 68-82. (2010).

⁹⁵ Ponnu, Cyril H. "Corporate governance structures and the performance of Malaysian public listed companies." *International Review of Business Research Papers* 4, no. 2 (2008): 217-230.

⁹⁶ KPMG "Cadbury: The Code of Best Practice". The KPMG Review. (1995).

⁹⁷ Organization for Economic Cooperation and Development. "Principles of Corporate Governance". Paris: OECD. (1999). P.76

are designed and pursued to achieve performance through the sound control system. A good CG should provide appropriate incentives and motivations that the members of the board, as well as the management, can pursue which correspond with the attention of both the company as well as shareholders. It is, therefore, essential to say that when CG is effective in an organisation or an economy, the degree of confidence of investors increases the market to function effectively⁹⁸. Consequently, this results in the decrease in the capital market cost while companies are motivated to use the resources at their disposal judiciously and lucratively thereby bringing about growth.⁹⁹ In the Malaysian context, the Report on CG established by the HLFC on CG delivered a clarification of CG as:

“The process and structure used to direct and manage the business and affairs of the company towards enhancing business prosperity and corporate accountability with the ultimate objective of realising long term shareholder value, whilst taking into account the interests of other stakeholders”.¹⁰⁰

CG in the perspective of financial reporting is regarded as the way a board of a company runs the company's affairs through its managers and how the members of the board are strictly accountable to the shareholders.¹⁰¹ Cornelius¹⁰² in previous studies set out in a wider sense that CG can be defined as the stewardship responsibility of corporate directors to provide oversight for the goals and strategies of a company and to foster their implementation. Thus, CG may, therefore, be

⁹⁸ Alnaser, Nabil, Osama Samih Shaban, and Ziad Al-Zubi. "The effect of effective corporate governance structure in improving investors' confidence in the public financial information." *International Journal of Academic Research in Business and Social Sciences* 4, no. 1 (2014): 556.

⁹⁹ OECD. (2004). P.11

¹⁰⁰ HLFC, (1999). P1

¹⁰¹ ONG, Wei Jiin. (2006). P4

¹⁰² Cornelius, P. (2005). P21

regarded as those rules that are interrelated and through which the affairs of organisations, shareholders and management behaviours are governed. The set rules spelt out in CG are attributes of individual companies and those factors which give room or enhance the power of companies to maintain sound practices of governance in spite of the weakness of public institutions. Those factors may necessarily include the relationship the corporation is keeping with stakeholders, structure of ownership, financial transparency, board structure and efficiency in information disclosure.¹⁰³ In another definition, CG is considered

“A system of corporate governance consists of those formal and informal institutions, laws, values, and rules that generate the menu of legal and organizational forms available in a country and which in turn determine the distribution of power on how ownership is assigned, managerial decisions are made and monitored, the information is audited and released, and profits and benefits allocated and distributed”.¹⁰⁴

The relationship that exists among the important executives and officers of corporate businesses and that of relevant stakeholders, as well as the members of the larger society, is well explained by the previously constricted definition of CG.¹⁰⁵ In the broader version of the definition CG takes into consideration laws, compiled rules, and regulations as well as optional private segment practices which provide an opportunity for the companies to entice capital flow, efficient performance, realise revenue as well as complying with all legal requirements and anticipations of the

¹⁰³ Peter Cornelius, “Corporate Practices and National Governance Systems: What do Country Rankings Tell Us? - Part I/II,” 6 *German Law Journal* 583-604 (2005). Available at: <http://www.germanlawjournal.com/index.php?pageID=11&artID=589>

¹⁰⁴ Cornelius, P., & Kogut, B. M. (Eds.). “Corporate governance and capital flows in a global economy”. Vol. 1. Oxford University Press. (2003).

¹⁰⁵ Millstein, Ira M. "Introduction to the report and recommendations of the blue ribbon committee on improving the effectiveness of corporate audit committees." *Bus. Law.* 54 (1998): 1057.

community at large. Consequently, it was also argued that, irrespective of what defines the term CG, essentially it is considered an approach through which companies develop the confidence of their investors in better management capabilities of achieving adequate and company's sustainability in performance.¹⁰⁶

In a case involving Transmile Group Berhad, the BM on 4 May 2011 announced that the company was considered a PN17 Company and it required that the company submit its regularisation plan to the SC or BM. The company failed to do this reform; therefore, the BM took action to delist the company from BM, pursuant to paragraph 8.04 of the MMLR of BM after notifying the company on 19 May 2011. After consideration of all facts and circumstances of the matter, BM decided to reject the company's appeal and to delist the securities of the company from the official list of BM on Tuesday, 24 May 2011.¹⁰⁷

On 17 Oct. 2012, BM announced that SAAG Consolidated (M) Bhd triggered one of the prescribed criteria pursuant to paragraphs 8.04 and 2.1(f) of PN 17 of the MMLR. Henceforth, SAAG was considered a PN17 company. The board of directors of SAAG announced on 6 November 2012 that the company was in the process of identifying a potential investor to support and formulate a regularisation plan to regularise its financial condition; however, the company failed to do this reform on time. On 4 Sept 2013, SAAG was removed from the official list of BM with effect from 9.00 a.m. Monday 9 September 2013, pursuant to paragraph 16.11(2) (d)(ii) of the MMLR.¹⁰⁸ In sum, the above cases show that for companies to continue as PLCs,

¹⁰⁶Saad, N. M. (2010). P9

¹⁰⁷http://www.bursamalaysia.com/market/listedcompanies/companyannouncements/#/?Category=all&sub_category=all&alphabetical=All&company=7000

¹⁰⁸http://www.bursamalaysia.com/market/listedcompanies/companannouncements/#/?category=all&sub_category=all&alphabetical=All&company=9652

restructuring and revival of the companies are necessary to investors make accurate investment decisions.

Disclosures, on the other hand, have been defined as the information dissemination, qualitative as well as quantitative, by companies. It is statutory or non-compulsory, which simplifies the consumers in building informed economic choice.¹⁰⁹ Statutory mandate in the disclosure represents

“Legal and regulatory requirement that specifies the types of information firms have to disclose, either in the annual report or other documents required by the regulatory agencies while voluntary disclosure refers to disclosures in excess of requirements to provide accounting and other information, deemed relevant to decision needs of the users of annual reports”.¹¹⁰

Importantly, when companies make appropriate disclosure as such information can be used to ascertain the risks and opportunities that are inherent in the investment and this guides for future investment decision and the level of risk that may be involved. In addition to the fact that risks are inherent in investment, there is doubt about the value of companies (in the area of the nature of their risks of cash flows as well as assets) and their securities.¹¹¹ Given this, therefore, investors often ask for information to (or “intending to”) recognizing the standard, uncertainty of current, the timing of the risk, as well as future cash flows to ascertain the worth of the company they are investing in so that they can make sound investment decisions¹¹².

¹⁰⁹ Meek, G. K., Roberts, C. B., & Gray, S. J. "Factors influencing voluntary annual report disclosures by US, UK and continental European multinational corporations". *Journal of international business studies*. (1995): 555-572

¹¹⁰ Meek, et al. (1995).

¹¹¹ Ibid

¹¹² Singh, Mohini, and Sandra J. Peters. "Financial Reporting Disclosures: Investor Perspectives on Transparency, Trust, and Volume." (2013).

Also, when corporations make, adequate disclosure, investors are guided against making wrong investment decisions¹¹³. Given the dynamism in the business environment and increase in business complexity, investors are now asking for additional information to guide their decision-making. In the recent years companies are satisfying this demand through appropriate and non-compulsory information disclosed in their yearly reports.¹¹⁴

2.3 The Development of Corporate Governance

CG has gone through different phases; however, modern age CG started precisely in the year 1992 when it was reported by Cadbury in its publication.¹¹⁵ The report was initiated by Cadbury as a response to the demise of giant UK companies like Polly Peck and Maxwell Communications Corporations in the 1990s. Ever since the Publication of Cadbury in 1992, there had been a major turnaround in CG not just in the UK alone but throughout the world. In line with this, many reports have been published to strengthen the practices of CG in the UK and other parts of the world as those reports have a great influence on many of the developments of CG codes globally.¹¹⁶

The primary purpose of introducing of CG codes is to bring about transparency and accountability in the stock market so that the confidence of both potential and existing investor is increased¹¹⁷. In line with this, many organisations have therefore

¹¹³ Ibid

¹¹⁴ Yusop, R. B. "Corporate governance compliance and voluntary disclosure of public listed companies in Malaysia". *Master dissertation, school of management* University Putra Malaysia, (2005).

¹¹⁵ Millichamp, A. and Taylor, J "Auditing 9thed". UK: South Western, Cengage learning. (2008)

¹¹⁶ Mallin, C. "Corporate Governance". Oxford, UK: *Oxford University Press*, (2004).

¹¹⁷ Cuomo, F., Mallin, C., & Zattoni, A "Corporate governance codes: A review and research agenda." *Corporate governance: an international review* 24, no. 3 (2016): 222-241.

established to enforce CG codes and practices codes. These bodies are from various committees appointed by government departments and comprise important and successful business icons from industry, investment community representatives, professional bodies' delegates, and representatives from various academic institutions that work with stock exchange bodies and other groups such as investors and directors/secretaries of companies or their representatives.¹¹⁸

However, most of the East Asian codes of CG includes Malaysia established in the year 2000 have various examples which pointed out that the financial crisis that East Asian witnessed in 1997 was the result of the weaknesses that were inherent in the existing CG system. These weaknesses explained by the Cadbury report were similar reasons why most UK companies also collapsed in the early 1990s.¹¹⁹

2.3.1 OECD's Principles of Corporate Governance Framework

In 1999, the principles guiding OECD on CG activities were published. However, most OECD countries started making frantic effort to implement the principles after the Enron and WorldCom crises, and the response of USA Sarbanes-Oxley in 2002. The current membership of OECD included the founding country members of Belgium, Austria, Canada, France, Denmark, Greece, Germany, Iceland, Luxembourg, Italy, Norway, the Netherlands, Portugal, Norway, Spain, Switzerland, Turkey, United States, and the United Kingdom. Other members of the OECD are Finland, Japan, Australia, Mexico, New Zealand, Hungary, Mexico, Czech Republic,

¹¹⁸ Cuomo, F., Mallin, C., & Zattoni, A. (2016)

¹¹⁹ Ibid.

Malaysia, Korea and Poland.¹²⁰ All countries members of OECD excluding the USA have embraced CG codes to adhere to the “comply or explain” principle. However, the principle of “comply or be punished” was adopted by the USA Sarbanes-Oxley Act. Among the influences of SOX are that all companies that directly apply the principle often request their partnering organisations to conform to the SOX principle because adherence gives them a huge confidence in on-going compliance.¹²¹

The original principles guiding CG established in 1999 were revised by the OECD in 2004. Importantly, transparency and efficient market systems are the watchword and requirement of the OECD’s Principles. Additionally, member countries are equally required to support the local government’s laws while identifying a company’s manager’s responsibilities in the course of establishing their framework. Moreover, shareholders’ right should be firmly protected and supported by any form of a framework that is established by an OECD member and such framework should equally ensure fairness in treating each shareholder. The concept of fair treatment hinges on the fact that all shareholders should have equal voting rights while investors should be given equal access to the company’s information. This therefore indicates that the framework should prohibit or prevent any form of insider trading, managing conflicts of interest, preventing the abuse of power, corruption, and money laundering¹²². Additionally, the framework must embed the compulsory requirement of disclosing any form of likely conflicts of interest by the board member. It is equally proposed that such established CG framework should promote co-operation

¹²⁰ Stanwick, P. “Corporate Governance in the 21st Century: Do We Need Global Standards?”. *Auburn University*. (2006).

¹²¹ Sinan D, "Corporate Governance: the Effects of Board Characteristics, Information Technology Maturity and Transparency on Company Performance". *Yeditepe University, Istanbul*, (2008).

¹²² Haniffa, Roszaini, and Mohammad Hudaib. "Corporate governance structure and performance of Malaysian listed companies." *Journal of Business Finance & Accounting* 33, no. 7-8 (2006): 1034-1062.

between the shareholders and the companies as this motivates shared wealth.¹²³ Insider trading from disclosure and CG perspective serves as a regulator of market behaviour sourced from the defence, or exception provisos. The insider-trading provisions are an aspect of CG that enables systemic stability and integrity in the necessary and relevant financial and other disclosures; it also promotes market liquidity and lowers the cost of capital¹²⁴.

Additionally, the CG framework must avail the shareholders an opportunity of correcting any form of direct and indirect violations shareholders' right. Moreover, the framework must equally incorporate a performance-enhancing mechanism that encourages employee participation and equally allows the shareholders to present their cases on any form of unethical or illegal activities without any limitations.¹²⁵ Furthermore, the OECD member must ensure that the framework that is being adopted guarantees accurate and timely disclosures of pertinent company's information in that disclosure must cover total financial results and the overall objectives of the company. Additionally, it is compulsory that the framework obliges the company to disclose the compensation being paid to top executives and board members, the possible risks which the company is currently facing or anticipating, the comprehensive reports of external auditors, and the confirmation that the information released by the company is based on formal accounting standards.¹²⁶

Also, OECD also requires a company to incorporate the disclosure of strategic focus of the board members into its framework. Such disclosure ensures review and close

¹²³ Sinan D. (2008).

¹²⁴ Wong, Edward Sek Khin, Choong Kwai Fatt, and Priscillia Yap Poi Yok. "Disclosure and corporate governance of insider trading: The Malaysian perspectives." *African Journal of Business Management* 4, no. 9 (2010): 1883.

¹²⁵ Sinan D. (2008).

¹²⁶ Ibid

monitoring of the process of decision-making of the management of the company. The framework clearly states that the board directly reports and is accountable to the company and its shareholders. The board of directors must equally ensure that there are a standing and effective policy on a training program which supports the implementation of high ethical principles within the organisation. Similarly, the framework must equally ensure detailed disclosure of the process that is involved in the selection, compensation and evaluation of the members of the board to the shareholders. Ultimately, the board of directors is to ensure the integrity of the financial information that the company discloses as the board must also have enough independent board members who are non-executives of the company.¹²⁷

2.3.2 The International Integrated Reporting Council (IIRC)

IIRC is a global alliance of regulators, investors, corporations, standard holders, accounting professionals and non-governmental organisations. The Alliance promotes communication of value creation as the next step in corporate reports progress. The IIRC showed that after the recent global financial crisis, investors had lost confidence in traditional reports and began to analyse the relationship between financial performance and sustainable development.¹²⁸ Established in 2010, IIRC recognised the need to move to an appropriate international framework for reporting on international relations for the twenty-first century. World leaders from corporate

¹²⁷ OECD. (2008).

¹²⁸ Soyka, Peter A. "The International Integrated Reporting Council (IIRC) integrated reporting framework: toward better sustainability reporting and (way) beyond." *Environmental Quality Management* 23, no. 2 (2013): 1-14.

sectors, investment, accounting, securities, regulation, academia and civil society met and set standards for the development of a new reporting approach.¹²⁹

IIRC aims to develop an internationally accepted IR framework to lay the foundations for a new reporting model that allows organisations to provide brief communications on how to create value over time and think about prevailing business practices as a rule in the public and private sectors. To align capital allocation and institutional behaviour with broader objectives of financial stability and sustainable development through the IR cycle.¹³⁰ In 2013 the IIRC published the first version of its IR Framework¹³¹. An IR is defined as “a concise communication about how an organisation’s strategy, governance, performance and prospects, in the context of its external environment, lead to the creation of value over the short, medium and long term”¹³². The objective of this Framework is to improve the quality of information available to financial capital providers; provide a more cohesive and efficient approach to corporate reports; improve the accountability and administration of the broad capital base and promote understanding of their interdependencies; as well as supporting integrated thinking, decision-making and actions that focus on creating value in the short, medium and long term.¹³³

In Malaysia, the Integrated Reporting Steering Committee (IRSC) was established at the Institute of the Malaysia Accountants (MIA) on December 18, 2014, on the recommendation of the SC. The Committee focuses on raising awareness and

¹²⁹ Hussey, Roger, and Audra Ong. Corporate Financial Reporting. Springer, 2017.

¹³⁰ Dada, Adefolami. "Benefit of International Integrated Reporting Framework to All Economies. The News." (2015).

¹³¹ Stent, Warwick, and Tuyana Dowler. "Early assessments of the gap between integrated reporting and current corporate reporting." *Meditari Accountancy Research* 23, no. 1 (2015): 92-117.

¹³² Reporting, Integrated. "The international< IR> framework." <http://www.theiirc.org/wp-content/uploads/2013/12/13-12-08-The-International-Irframework-2-1.pdf>. Acesso em 9: 12.

¹³³ Stent, et al. (2015)

promoting IR. In 2017, the SC published the new MCCG, a set of best practices to strengthen the corporate culture based on accountability and transparency, with information integrated as part of it. The MIA has established an IRSC and has developed a plan for 100 Malaysian companies to move towards the IR in 2019. As reported by MIA¹³⁴ in 2 November 2017, there were 35 leading companies have committed in adopting the IR, and the BM had published an integrated report in March 2017.¹³⁵

2.3.3 The Development of Corporate Governance in Malaysia

Malaysia has gone through several stages of improvement in CG before and after the collapse. The collapse forced the Malaysian government to carry out some reforms to avoid any future crisis, as the affected countries recognized that poor CG was the cornerstone of the crisis.

2.3.3.1 The Malaysian Initiatives in Promoting CG

Malaysia was among the South-east Asian countries that were seriously affected by the 1997 crisis¹³⁶. The crisis affected many big corporate organisations, forcing them to face severe difficulties in their operations. It also significantly and negatively affected the revenue generating activities of the companies as debt accumulation problems became rampant while many employees sacked. These were the

¹³⁴ Mahazan, N. "MIA's journey to Integrated Reporting" 2 November, 2017, available at : <http://integratedreporting.org/news/mias-journey-to-integrated-reporting/>

¹³⁵ Securities Commission Malaysia "SC Releases New Malaysian Code on Corporate Governance to Strengthen Corporate Culture". Kuala Lumpur, 26 April 2017. Available at: https://www.sc.com.my/post_archive/sc-releases-new-malaysian-code-on-corporate-governance-to-strengthen-corporate-culture/

¹³⁶ Thillainathan, R. "Corporate Governance & Restructuring in Malaysia." *Corporate governance in Asia: A comparative perspective*. (2001): 275.

Cheah, K.G. "Malaysian corporate governance regulation: Before and After the Financial Crisis". *OIDA International Journal of Sustainable Development*, 1,5,53-59, (2010).

consequences of weak CG highlighted by previous studies.¹³⁷ Thillainathan¹³⁸ emphasised a lack of shareholder protection under the Malaysian CA 2016 and the BMLR, which governed the business activities and practices former to insert the code of CG 2000. Furthermore, researchers revealed that many companies in this region were family owned and this made it difficult to separate ownership and control.¹³⁹ This situation exposed shareholders in the minority to be suppressed by majority shareholders who in many circumstances were part and parcel of the management team. Other researchers showed the value of implementing the rules and legal protection as an important element for efficient CG.¹⁴⁰

Towards better governance in Malaysia, efforts were made long before the Asian countries faced the financial crisis.¹⁴¹ However, to ensure the continuous effectiveness of the market, various codes on mergers and acquisitions were issued and subsequently, various practice notes were also put in place to ensure that the activities of corporate bodies with respect to mergers and acquisitions were effective.¹⁴² In 1993 through the Securities Commission Act (SCA), a Securities Commission was founded and vested with the power to investigate issues in the stock market and to protect investors from illegal acts of operators in the market. Attention was also given to the issues of the audit committee as well as independent directors. In 1996 a code of ethics for directors was issued to strengthen the marketplace. The content of the code was related to transparency principles, accountability, corporate

¹³⁷Mitton, T. (2002). P5

¹³⁸Thillainathan, R. (2001). P25

¹³⁹Claessens, S., Fan, J. P., Djankov, S., & Lang, L. H. "On expropriation of minority shareholders: evidence from East Asia." Available at SSRN 202390 (1999).

¹⁴⁰La Porta, R., Lopez-de-Silanes, F., Shleifer, A., & Vishny, R. "Investor protection and corporate governance". *Journal of financial economics*, 58, no. 1. (2000): 3-27.

¹⁴¹Cheah. (2010). P25

¹⁴² Ibid.

social responsibility, and integrity to ensure transactions in the market are well carried out. The main areas the code covers include the relationship with employee, shareholders, customers and creditors, CG, and social responsibilities to the environment.¹⁴³

As a further step to ensure that the Malaysian economy was enhanced and boosted, the Minister of Finance on 24 March 1998 established the HLFC on CG.¹⁴⁴ The HLFC establishment started with a Committee that consists of parties and representatives from the industry and government. The recognition given to Malaysia CG was evidenced through the release of MCCG by the Committee that was saddled with responsibilities in March 2000. There were four basic guiding principles and rules in the report which include the directors' board, remuneration of director, shareholders, audit as well as accountability.¹⁴⁵

In 2008, the global financial crisis accumulated and was considered the worst financial crisis since the 1930s¹⁴⁶. It began in 2007 with a crisis in the US mortgage market and became an international banking crisis with the collapse of investment bank Lehman Brothers. The impact on investor confidence later influenced the global markets and rapidly affected the economic growth in Malaysia¹⁴⁷. Although Malaysia's economy was isolated from the direct effects of financial exposure due to the lack of new derivatives in the country, the global financial crisis cast doubt on the

¹⁴³ Hock, D. L. Y. "Leadership and ethnicity in public companies in Malaysia". *Journal of Business Systems, Governance and Ethics*, 2, no. 2. (2007): 59.

¹⁴⁴ Lai, Y., and D. Hock. "Leadership and ethnicity in public companies in Malaysia." *Journal of Business Systems, Governance and Ethics* 2, no. 2 (2007): 59-74.

¹⁴⁵ Abdul Hadi Bin-Zulkafli, et al. "Corporate Governance in Malaysia. Malaysia Institute of Corporate Governance". 1-18 downloaded Feb 04, (2010). From www.micg.net.

¹⁴⁶ Benlamri, Rachid, and Michael Sparer. "Leadership, Innovation and Entrepreneurship as Driving Forces of the Global Economy". Springer, (2017).

¹⁴⁷ bin Ibrahim, Muhammad. "Impact of the global crisis on Malaysia's financial system." Bank of Israel Rony Hizkiyahu 267 (2010).

government's plans to achieve the 2020 vision because of the collapse of exports and the decline in foreign direct investment¹⁴⁸. However, Malaysia has adopted a rebalancing strategy through the selection of capital controls as a tool for crisis management by preventing urgent economic reforms and prolonging the policies of the current ruling party¹⁴⁹.

2.3.3.2 Malaysian Code of Corporate Governance

The MCCG was first released in 2000, a huge step toward reform of CG in Malaysia. In January 2001, the MICG came out with the Code of CG, and which is largely based on the Hampel Report that was issued in the UK. The purpose of the Code was to spell out essential guidelines towards best practices on the processes and structures being adopted and used by companies in their daily operations to achieve the best governance framework. The issues involved include how the board of directors can be composed, recruitment of new directors and their remunerations mandate of the board, and their specific functions.¹⁵⁰ Also contained in the Code are forms of recommendations which include the best practices in CG, principles of good CG, and specific roles of investors and auditors to enhance good CG and best practices. The Code also permits a more flexible and constructive response to enhance the standards in the CG against the bureaucratic nature that was engendered by statute or regulation. Practically, there are certain aspects of the CG where statutory regulations are applicable while in some instances self-regulation supported by regulating the

¹⁴⁸ Nambiar, Shankaran. "Malaysia and the global crisis: impact, response, and rebalancing strategies." *The Global Financial Crisis and Asia: Implications and Challenges* (2012): 218.

¹⁴⁹ Doraisami, Anita. "Macro-Economic Policy Responses to Financial Crises in Malaysia, Indonesia and Thailand." *Journal of Contemporary Asia* 44, no. 4 (2014): 581-598.

¹⁵⁰ Hampel, R. "Committee on corporate governance ": Final report: The final report (Hampel Report). London: Gee&Co. (1998).

market is more convenient. The principles of CG are meant to bring about the best practices of good governance as well as prescribing the best form of CG organisations as well as internal progressions. Since the issuance of the MCCG, the Malaysian corporate organisations had experienced tremendous improvements in CG while the standards were being implemented.

In 2007, as a result of the synergy between the government and the industry, the CG Code was revised. The revisions aimed at strengthening the power of the board of audit committees as well as directors¹⁵¹ in addition to certifying that both implemented their duties successfully. The Code also states the criteria to be used in selecting or appointing directors and the role of the nominating committee. It also states how members of the audit committee is appointed as well as specifying the composition and the frequency with which they will be met and how continuous training will be given to them.¹⁵² The CG Code was revised again in 2012¹⁵³. As specified in the MCCG 2012, the Code made it compulsory for all companies to make an appropriate disclosure to enhance CG practices in the companies to protect the interests of shareholders. The Code was also meant to strengthen the board structure and composition while recognising the directors' roles and their fiduciary responsibilities.¹⁵⁴

¹⁵¹ Ibid

¹⁵² Securities Commission (SC). "The Malaysian code on corporate governance". Kuala Lumpur: Securities Commission. (2007).

¹⁵³ Malaysian Code on Corporate Governance (MCCG): Securities Commission, Malaysia. (2012). Available: <http://www.sc.com.my/eng/html/cg/cg2012.pdf>

¹⁵⁴ The Malaysian Code on Corporate Governance. (MCCG): Finance Committee on Corporate Governance. (2002). Available at: <http://www.sc.com.my>.

Recently, a new amendment of the MCCG was released by the SC and took effect on the 26 April 2017, replacing the 2012 code¹⁵⁵. The Code contains 36 practices to support three principles: leadership and effectiveness of the board; effective audit, risk management, and internal controls; and corporate reporting and relationship with stakeholders¹⁵⁶. It offers significant changes to the CG standards. It also adopts a proportional application for companies by size, complexity and suitability. The Code is addressed to PLCs and all companies, including state-owned companies, small and medium enterprises, and intermediaries authorised which are encouraged to comply with the Code. Also, it uses the CARE approach when moving from “comply or explain” to “apply or explain” as an alternative method¹⁵⁷. The public company should provide a meaningful explanation in its annual report on how it applies to each practice in the Code, as well as the interpretation of outputs and the disclosure of alternative practices, and how the application of the practice achieves the desired result¹⁵⁸. This provides greater flexibility in applying new code and aims to encourage listed companies to think more by adopting and reporting on CG practices.

2.3.3.3 Companies Act 2016

Malaysian legislation relating to companies has always been vibrant and progressive. The CA 1965 is the key Act that governs and administers the formation of companies and their functioning. It has been amended more than 30 times to keep in tandem with the latest development in the corporate sector. The year 2007 witnessed the

¹⁵⁵ Securities Commission Malaysia “SC Releases New Malaysian Code on Corporate Governance to Strengthen Corporate Culture”. Kuala Lumpur, 26 April 2017. Available at: https://www.sc.com.my/post_archive/sc-releases-new-malaysian-code-on-corporate-governance-to-strengthen-corporate-culture/

¹⁵⁶ Ibid

¹⁵⁷ Brian Chia and Sue Wan Wong " Malaysian Code on Corporate Governance and Regulatory Developments". Baker McKenzie. 30 April 2017. Available at: <https://www.bakermckenzie.com/en/insight/publications/2017/04/malaysian-code-corporate-governance/>

¹⁵⁸ Securities Commission Malaysia. (2017)

enactment of another amendment act, i.e., the Companies (Amendment) Act 2007 (Act A1299) (hereafter referred to as “Act A1299”). Act A1299, which came into effect on 15 August 2007, is a major milestone in the history of company law in Malaysia.¹⁵⁹ Lastly, the CA has been amended in 2016 under the Act 777, in order to replace the 1965 act as a whole, the new act aimed to provide a regulatory framework to facilitate starting a business and reduce cost of doing business, accord protection to corporate directors and other stakeholders of a company, enhance internal control, CG and corporate responsibility, provides flexibility in managing affairs of companies, simplification of compliance provisions.¹⁶⁰

Since 1965, officers of the registrar of companies relied, to a certain extent, on the works and recommendations of the Jenkins’ committee in the UK and the Eggleston’s committee in Australia when drafting the proposal for amendments. Many of the recommendations particularly those dealing with accounts and audit, disclosure of interests by directors and substantial shareholders, substantial property transaction with directors, and insider trading were adopted in the amendments to the CA in the form of sections 76, 223, 228 as well as division 5 of part III relating to disclosure by substantial shareholders.¹⁶¹

As a result of the amendments made to the CA over the years, the governance structure of the corporate sector has been strengthened to ensure sustainable and healthy continuous growth of companies in Malaysia. Since the beginning of the crisis in 1997, the CA was amended five times and it introduced provisions which

¹⁵⁹ Bidin, Aishah. "Corporate law reform and corporate governance in Malaysia—responses to globalization". *Corporate Governance After the Financial Crisis* (2012): 229.

¹⁶⁰ Home Business. “new companies act game changer for corporate governance” . The EDGE financial daily. (2016). Available at: <http://www.pwc.com/my/en/assets/press/161031-theedge-new-companies-act-game-changer-for-corp-gov.pdf>

¹⁶¹ Ibid

allow share buyback, extend the maximum period of option over unissued shares from five to ten years, impose limitation on payment of dividends, strengthen the requirements on disclosure of substantial shareholdings, and improve existing provisions to curb abuses of restraining orders under section 131 of the CA 1965 by financially troubled companies to the disadvantage of creditors and others.¹⁶² Continuously, the CA was amended again in 2016 and introduced provisions to strengthen the requirements on disclosure of substantial shareholdings under section 221 which indicated that;

" every director of a company who is in any way, whether directly or indirectly, interested in a contract or proposed contract with the company shall, as soon as practicable after the relevant facts have come to his knowledge, declare the nature of his interest at a meeting of the directors of the company....".

2.3.3.4 Capital Market and Services Act (2007)

CMSA, which consolidates part of the Securities Commission Act (SCA), the Securities Industry Act, and the Futures Industry Act, came into force on 28 September 2007 except part VI Division 2 relating to takeovers and mergers which were enforced in 2008. The massive legislation, comprising 394 sections and 11 schedules, was the result of the implementation of recommendations 92, 118, and 123 of the capital market master plan 1 which advocate the consolidation of the securities and futures legislation and the creation of a single licensing regime. The CMSA consolidates the provisions of SIA 1983 and the Future Industry Act 1993

¹⁶² Salim, Mohammad Rizal. "Company law reform in Malaysia: the role and duties of directors". *International Company and Commercial Law Review* 142 (2009).

and repeals those legislations. Certain provisions of the SCA 1993 incorporated into the CMSA were repealed.¹⁶³

The Act was amended in 2011 to enhance the competitiveness of the Malaysian capital market with changes to expand the mandate of the SC to promote market stability as well as to ensure effective regulatory oversight over trustees and custodians. The licensing provisions in the CMSA were also amended to promote ease of doing business and facilitate a more cost- effective regulatory regime without compromising investor protection. These reforms also strengthened the SC regulation of over-the-counter derivatives with a trade repository to be introduced.¹⁶⁴

To maintain investor confidence in the markets, there is a need for securities markets activities to be regulated, which must be rigorously enforced. The CMSA is considered the key statute that regulates all prohibited conducts in the securities and derivatives markets. To maintain the market, the Act covers different aspects such as the capital markets services, compensation fund and fidelity fund, market misconduct and other prohibited conduct, offering and issue of securities, provisions applicable to listed corporations, self-regulatory organisations, capital market development fund, disclosure of information, administrative and civil actions, general provisions on repeal and savings, and transitional provisions. However, the present study focuses on the disclosure of information.¹⁶⁵

The CMSA stipulates in article 90 of part III the disclosure of certain interests in securities. It indicates that a registered person carrying out permitted capital market

¹⁶³ Wong Beh & Toh. "Major New Legislation and Changes to Securities and Capital Markets Laws". *Advocates & Solicitors*. (2007).

¹⁶⁴ Securities Commission. (2012). Available at:http://www.sc.com.my/post_archive/funds-approved-in-capital-market-increased-54-in-2011/

¹⁶⁵ Mohd-Sulaiman, Aiman Nariman. "Financial Misreporting and Securities Fraud-Public and Private Enforcement". *Australian Journal of Corporate Law* Forthcoming. (2008).

activities is required to comply with the CMSA and any regulations or guidelines made pursuant to the Act. The key intention of the investor protection provisions of the act is to accord protection to the customers through appropriate disclosures by licensed or registered persons to mitigate the conflict of interest situations. The investor protection provisions are not intended to be used by any parties to secure a market advantage.¹⁶⁶ In addition to the information required by part 3 to be included in a prospectus in relation to securities of a corporation, such a prospectus shall contain such information as investors and their professional advisers would reasonably require and reasonably expect to find in the prospectus for the purpose of making an informed assessment of the assets and liabilities, financial position, profits and losses, prospects of the corporation, and the rights attaching to the securities.¹⁶⁷ However, the information required is information known to the directors, professional advisers, and others involved in the preparation of the prospectus. The act also provides some criteria for deciding what types of information would satisfy the requirements. These include the nature of the securities, the kinds of persons likely to subscribe the securities, and the extent of information prospective investors may already have about the corporation by being existing shareholders in the corporation.¹⁶⁸

2.3.3 The Malaysian Capital market Master Plans

The Malaysian capital market master plan is a strategic plan. The long-term goal of the plan is to ensure that the capital market is strong enough to give adequate support

¹⁶⁶ Securities Commission. (2012).

¹⁶⁷ Securities Commission Act. Section 45. General duty of disclosure in prospectus. (1993).

¹⁶⁸ Mohd-Sulaiman, Aiman Nariman. (2008).

to the economic growth in Malaysia to meet the regional and global challenges of the future. It also puts in place the objectives, vision, and strategic initiatives that will make the Malaysian stock market successful in meeting future challenges.¹⁶⁹

2.3.3.1 The Capital Market Master Plan 1 (CMP1, 2001)

Central Bank of Malaysia in 2001 set the ten-year market master plan with the purpose of charting the future direction and making Malaysia a capital market to compete at the international level.¹⁷⁰ For a market to function effectively, many recommendations have been implemented through the establishments of certain rules and framework for the markets.¹⁷¹ SC was given the responsibilities to execute the proposals contained in the report. The report recognises the adverse effect of the economic crisis on investor confidence in the Malaysian capital market, which resulted in concerted efforts in building comprehensive and well-coordinated reforms to advance CG. The SC also recognised that a world-class capital market is an accountable and transparent organisation that is performance-driven whose activities are based on sound and consistent CG principles.¹⁷² The provision of good CG is the bedrock of sustainable and smooth capital because such environment is conducive for investment and will allow investor confidence to increase. The traditional structures were obsolete due to continued financial innovation and structural changes, leading to the total overhauling of the existing regulatory system.¹⁷³

¹⁶⁹Securities Commission. (SC) "Capital market master plan". Securities Commission: Kuala Lumpur, Malaysia. (2001).

¹⁷⁰ Yeon, A. L., & Mohd Shamsudin, F. "Reason for non-compliance of license holders towards disclosure-based regulation in Malaysian securities". *Asian Pacific Marketing and Management conference (APMC)*, Universiti Malaysia Sarawak. (2011):1-9.

¹⁷¹ Ibid

¹⁷² Allan Chang A. L., (2004). P1

¹⁷³ Ibid

At present, the Malaysian CG framework and financial reporting standards are comprehensive when compared to other countries that have clearing and settlement systems and legislation in line with the principles of the International Organizations of Securities Commission¹⁷⁴ (IOSCO).¹⁷⁵ This framework approved by the finance minister in December 2000 and launched in February in 2001 formed the basis for operating the market efficiently. The underpinning principles and visions of the CMP1 were an efficient allocation and uses of funds that will win the confidence of market participants. The strategic power of the CMP1 lies in CG as effective CG is an important tool for public-listed companies to ensure an appropriate environment for investors to invest in the Malaysian capital market. As part of its operating principles, CMP1 always emphasise and make it compulsory for appropriate disclosure to be made about the state of compliance with the MCCG which was issued for the purpose of revamping the listing requirements on January 22, 2001, for listed companies.¹⁷⁶

There are some inherent weaknesses in the SC contained in the master plan of the current regulatory framework which was developed on an incremental basis, such as a lack of sufficient information and regular supply of material information. However, there are measures in place through legislative practices that are meant to address any form of perceived or potential failures in the system and also to protect the interest of

¹⁷⁴ “The IOSCO, established in 1983, is the acknowledged international body that brings together the world’s securities regulators and is recognized as the global standard setter for the securities sector. IOSCO develops, implements, and promotes adherence to internationally recognized standards for securities regulation, and is working intensively with the G20 and the Financial Stability Board (FSB) on the global regulatory reform agenda. IOSCO membership regulates more than 95% of the world’s securities markets. Its members include over 120 securities regulators and 80 other securities markets participants. IOSCO is the only international financial regulatory organization that includes all the major emerging markets jurisdictions within its membership”. www.iosco.org.

¹⁷⁵ Yeon, A. L., & Mohd Shamsudin, F. (2011). P28

¹⁷⁶ Abdul Hadi Bin-Zulkafli, A. (2010). P26

investors.¹⁷⁷ Also, one of the duties of the registrar of companies is to regulate financial and stock markets and all activities of participants, duties of players and officials of the markets, and obligations and duties of the directors of companies and all other officers in the market.¹⁷⁸ The duties of the registrar has led to inconsistencies and overlapping of duties with its consequent effect on the market and has led to different measures of performance and disclosures as well as unequal treatment of participants.¹⁷⁹ Another major weakness inherent in the present framework is the lack of appropriate, accurate and timely data. Likewise, there are few active contributions from the most important institutional investors.¹⁸⁰

2.3.3.2 The Capital Market Master Plan 2 (CMP2, 2011)

The CMP2 of Malaysia was meant to transform Malaysia into one of the developed economies in the year 2020, which was in line with national economic plan.¹⁸¹ In 2011, to meet regulatory and governance challenges, the Malaysia SC launched CMP2. Some of the regulatory challenges include (i) global regulation such as new international standards, (ii) how risks can be managed effectively to increase the confidence of the investors, and (iii) facilitation of new business concepts and streamlining the process of removing redundant rules. Consequently, growth can only be achieved when the capital formation is encouraged. When there are efficiency and effectiveness in intermediation process, the risk that is involved in liquidity is well managed, and human capacity is well enhanced. For governance to

¹⁷⁷ Leng, C. A. "The Impact of Internal and External Monitoring Measures on Firm's Dividend Payout: Evidence from Selected Malaysian Public Listed Companies". *International Journal of Business and Management*. October, Swinburne University of Technology, Kuching, Malaysia. (2007).

¹⁷⁸ Allan Chang A. L., (2004). P1

¹⁷⁹ Ibid

¹⁸⁰ Leng, C. A. (2007).

¹⁸¹ Securities Commission. (SC) "Corporate Governance Blueprint 2011." (2011).

be elevated, there must be high regulation of product, capabilities must be expanded, accountabilities must be improved and regulatory framework enhanced.¹⁸² Therefore, a legal obligation must be enforced on companies to make appropriate disclosure having collected and processed the required information. In this regard, companies will be more responsible about their internal structure and operation.¹⁸³

During 2013 the SC set out important regulations called the CG Blueprint. The substance of this regulatory framework is to make sure that CG practices are relevant in contemporary organisations. One of the five underlying CG systems included in this framework is disclosure and transparency principles. The framework highlights that the value of disclosure is measured by the extent of information that is useful to the shareholders in assisting them in making better decisions. Moreover, CG has also been critically significant to other stakeholders such as regulators, creditors, governments and employee, etc. in so far as the market capital efficiency and the allocation of resources are concerned.¹⁸⁴ Subsequently, companies are obligated to make disclosure to all their stakeholders. For this to happen, companies need to structure their internal processes very well and be more transparent in their disclosure activities. Many benefits accrue from appropriate disclosure as argued in the literature. These benefits include a reduction in the budget of the capital market, a decrease in the cost of servicing company's debt, and enhancement of share values on the capital market.¹⁸⁵ In this regard, a well-articulated CG can only be achieved

¹⁸² Yeon, A. L., & Mohd S, F. "Licence holders' perspective on legal philosophy and public disclosure policy in Malaysian securities markets". *Proceedings of the international soft science conference*, Vietnam. November. (2011).

¹⁸³ Yeon, A. L., & Mohd S, F. (2011).

¹⁸⁴ Ramli, J. A., Surbaini, K. N., & Ramli, M. I. "Assessing the Effects of Corporate Governance Attributes on the Quality of Directors-Related Information Disclosure: The Empirical Study of Malaysian Top 100 Companies". *American Journal of Economics* 3, no. 2. (2013): 90-99.

¹⁸⁵ Ibid

through appropriate regulations, a well-functioning market with good disciplinary mechanisms, and an investment environment where all shareholders and other stakeholders can assume responsibility for their decisions and actions.¹⁸⁶ Shareholders, gatekeepers who act as intermediaries, and other influencers must also instil a culture of discipline in the market to ensure that CG is effective. Therefore, there is an urgent need for Malaysia to move beyond reliance on regulatory discipline to firmly embed CG and best practices culture in PLCs.¹⁸⁷

2.4 The Importance of Corporate Governance and Disclosures

CG and disclosures are highly important in today's global market and a free-market economy. According to Mallaby¹⁸⁸ the president of the World Bank, James D. Wolfensohn indicated that, CG can be likened to the governance of many countries as its failure can have an 'epidemic effect'. For instance, the financial debacles in Asia and the failures of specific companies for example Satyam, Enron, and recent sub-prime bubble

as well as the 2008 global financial crisis all point to the inadequacy and failure of CG and lack of transparency with its serious implications¹⁸⁹, suggests that the quality of disclosures and CG cannot be compromised because of its direct impacts on the existence of an organisation.¹⁹⁰ Therefore, the capacity through which a corporation employs asset and draws capital at low-cost depends on its quality of CG and

¹⁸⁶Securities Commission. (SC), "Corporate Governance Blueprint 2011". (2011).

¹⁸⁷ Ibid

¹⁸⁸ Mallaby, Sebastian, and Peter Rosenblum. "The world's banker: a story of failed states, financial crises, and the wealth and poverty of nations." (2005).

¹⁸⁹Maassen GF, van den Bosch FA, Volberda H. "The importance of disclosure in corporate governance self-regulation across Europe: A review of the Winter Report and the EU Action Plan". *International Journal of Disclosure and Governance* 1, no. 2 (2004): 146-159.

¹⁹⁰Gregory, H. J., & Simms, M. E. "Corporate governance: what it is and why it matters". In *9th International Anti-Corruption Conference, Kuala Lumpur*. (1999).

disclosures. In fact, it has been established that a company with an efficient and credible CG framework faces less difficulty in attracting domestic and foreign capital because such company can confidently convince its investors that their money would be invested as agreed. A survey of institutional investors¹⁹¹, for instance, revealed that investors would be willing to invest and on the average pay over ten percentage points more for a company that is “well-governed” than otherwise. In line with this, likewise it has been suggested that a company that operates an efficient CG would attract more investors who would be willing to finance the operations of the company.¹⁹² It is, therefore, essential to acknowledge that good CG disclosures are highly essential in reducing information irregularity with subsequent reduction in the risks of investors and volatility of the company’s share.¹⁹³

Essentially, the corporate disclosure is playing a central role in securing long-term capital at a cheaper cost especially for companies in developing countries that depend mostly on financial and foreign direct investments. When companies have efficient governance mechanisms that help protect investors, the development of effective capital markets is equally assured. Importantly, the workability and effectiveness of a capital market are also a product of effective and free flow of information between the stakeholders and their companies.¹⁹⁴

CG is an instrument that helps companies to function fairly and judiciously as it helps check all forms of management immoderations and extreme exploitation of

¹⁹¹Felton RF, Hudnut A, Heeckeren JV "Putting a value on board governance". *The McKinsey Quarterly* 4 (1996): 170.

¹⁹²Bopkin and Isshaq. “Corporate governance, ownership structure, cash holdings, and firm value on the Ghana Stock Exchange”. *The Journal of Risk Finance*, Vol. 10 No.5, pp. 488-499. (2009).

¹⁹³Lang, M. H., &Lundholm, R. J. (1996).

¹⁹⁴Akhtaruddin, Md. "Corporate mandatory disclosure practices in Bangladesh". *The International Journal of Accounting* 40, no. 4 (2005): 399-422.

environmental and societal resources. It also helps combat unlawful and corrupt practices among business organisations with the purpose of encouraging accountability and transparency that will equally ensure that existing regulations are adhered to. It should be noted however that this practice may not eliminate corporate failure totally but could signify a ‘red flag’ that will serve as a warning of looming trouble for both stakeholders and the regulators.¹⁹⁵

2.5 Theories of Corporate Governance and Disclosures

The 1997 Asian financial crisis, the corporate scandals that led to the collapse of major financial firms such as Enron and WorldCom in 2003, and the global financial crisis of 2008 and 2009 revealed serious flaws in CG effectiveness¹⁹⁶. These failures in governance have motivated researchers to review and evaluate CG theories to promote proper CG, robust internal control, and internal decision-making to enhance information disclosure.¹⁹⁷

The fundamental theories in CG began with agency theory, which later expanded to signalling theory, legitimacy theory, proprietary costs theory, and capital need theory.

¹⁹⁵ Hassan Che Haat M, Abdul Rahman R, Mahenthiran S. "Corporate governance, transparency and performance of Malaysian companies". *Managerial Auditing Journal* 23, no. 8 (2008): 744-778.

¹⁹⁶ Apostolou, A. K., & Nanopoulos, K. A. "Voluntary accounting disclosure and corporate governance: evidence from Greek listed firms". *International Journal of Accounting and Finance* 1, no. 4. (2009): 395-414.

¹⁹⁷ Ali, A., Chen, T.- Y. and Radhakrishnan, S. "Corporate disclosures by family firms", *Journal of Accounting and Economics*, Vol. 44 Nos 1/2, pp. 238-68. (2007).

2.5.1 The Agency Theory

Much CG research is derived from agency theory. Since the first business of Berle and Means in 1932, CG had focused on the separation of properties and pedals, resulting in major problems in principal-agent problems from the separate ownership of the modern company. CG is considered a mechanism in which the board is a critical control tool to minimise problems caused by the underlying agent relationship. In this context, agents are managers, principals are owners, and the board is a control mechanism¹⁹⁸. Also, the CG literature promotes two factors in agency theory. The first factor is that companies are stuck in between two participants, managers and shareholders, whose interests are supposed to be clear and consistent. The second idea is that humans are self-interested and do not tend to sacrifice their personal interests to the interests of others.¹⁹⁹

2.5.1.1 What is Agency Theory?

Agency theory is otherwise known as the principal-agent relationship²⁰⁰. A principal-agent relationship can be defined as “a contract under which one or more persons (the principal) engage another person (the agent) to perform some service on their behalf which involves delegating some decision making authority to the agent”. For example, a client (principal) might hire a lawyer (agent) to defend his case. A homeowner (principal) might hire a carpenter (agent) to fix her staircase”²⁰¹. Extant studies have widely discussed the relationship between directors and shareholders

¹⁹⁸ Mallin, C. A. "Corporate Governance." Oxford University Press. (2004).

¹⁹⁹Daily, C. M., Dalton, D. R., and, Canella, A. A. "Corporate Governance: Decades of Dialogue and Data". *Academy of Management Review*, 28(3), 371–382 (2003).

²⁰⁰Jensen, Michael C., and William H. Meckling. "Theory of the firm: Managerial behavior, agency costs, and ownership structure". Springer Netherlands (1979).

²⁰¹Zelhuda Shamsuddin and Abdul Ghafar Ismail. (2013).

about the issues of CG and the dichotomy that exists between ownership, control, and the subjugation of the interest of shareholders which may eventually lead to agency problem and subsequent high cost of the agency.²⁰² Hence, to alleviate this challenge, it is important that a company appropriately discloses and be transparent while making its financial reporting as this will help reduce information irregularity that may be associated with the principal-agent relationship, even in the midst of some conflicts. Importantly, better disclosure otherwise known as ‘transparency’ is defined as “the accessibility of company-specific information by the shareholders and other stakeholders dealing with the public with the traded companies”.²⁰³ Transparency is often seen as a way through which companies regain the confidence of their shareholders to invest in the capital markets.²⁰⁴

Additionally, CG mechanisms and corporate disclosure are also regarded as complementary instruments which are used in the reduction of the agency problem. This fact has been corroborated by²⁰⁵ who asserted that both CG mechanisms and disclosure perform a complementary role especially when the expected role of disclosure is higher and CG mechanisms wield their influence for superior oversight function of the management for the purpose of aligning with the interest of the shareholders. Furthermore, the implementation of a good CG system can be used to minimise the agency problem²⁰⁶ because it promotes or synchronises principal-agent

²⁰² Jensen, Michael C., and William H. Meckling. (1979).

²⁰³ Bushman, Robert M., Joseph D. Piotroski, and Abbie J. Smith. “What determines corporate transparency?” *Journal of accounting research* 42, no. 2 (2004): 207-252.

²⁰⁴ Fernández, Zulima, and María J. Nieto. “Internationalization Strategy of Small and Medium Sized Family Businesses: Some Influential Factors”. *Family Business Review* 18, no. 1 (2005): 77-89.

²⁰⁵ Ho, S.S.M., Wong, K.S.A. “Study of the relationship between corporate governance structures and the extent of voluntary disclosure”. *Journal of International Accounting, Auditing and Taxation*, Vol. 10, p. 139-156 (2001).

²⁰⁶ Judge, WQ, Naoumova, I & Koutzevol, N. “Corporate governance and firm performance in Russia: an empirical study”, *Journal of World Business*, vol.38, pp. (2003): 385-396

relationship and goals.²⁰⁷ Additionally, the associated agency conflicts and cost of capital can also be reduced by appropriate information disclosure since the shareholders can monitor the activities of the management through information that is being disclosed. Jensen and Meckling²⁰⁸ stated that due to the separation of ownership and control, agency problems might occur. Thus, Williams²⁰⁹ proposed the application of a good CG system to minimise the agency cost because it promotes goal congruence among principals and agents²¹⁰. Cheung and Chan²¹¹ also mentioned that the main aim of CG is to monitor the management to ensure that the management decision fulfils shareholders' interests.

Evidence suggests that the principal-agent relationships often experience some problems when the principal is faced with a dearth of information when the agent is making some decisions. In particular, an information asymmetry crisis often occurs because the agent has robust information and works more effectively than the principal.²¹² In this circumstance, the principal lacks information about whether the agent is acting in his best interest. However, the agents should have acted differently when the principals monitored them.²¹³ Similarly, the principal may be faced with the difficulty of discerning the information asymmetry when there are hurdles in addressing, monitoring, and measuring the behaviour of the agent. This situation is

²⁰⁷ Conyon, M.J. & Schwalbach, J. "Executive compensation: Evidence from the UK and Germany, Long Range Planning" Vol. 33, (2000). 504-526.

²⁰⁸ Jensen, Michael C., and William H. Meckling. "Theory of the firm: Managerial behavior, agency costs and ownership structure." *Journal of financial economics* 3, no. 4 (1976): 305-360.

²⁰⁹ Williams, David R., W. Jack Duncan, Peter M. Ginter, and Richard M. Shewchuk. "Do governance, equity characteristics, and venture capital involvement affect long-term wealth creation in US health care and biotechnology IPOs?." *Journal of Health Care Finance* 33, no. 1 (2006): 54-71.

²¹⁰ Conyon, Martin J., and Joachim Schwalbach. "Executive compensation: Evidence from the UK and Germany." *Long Range Planning* 33, no. 4 (2000): 504-526.

²¹¹ Cheung, Stephen YL, and Bob Y. Chan. "Corporate governance in Asia." *Asia Pacific Development Journal* 11, no. 2 (2004): 1-32.

²¹² Ouyang, H.S. "Agency problem, institutions and technology policy". *Explaining Taiwan's semiconductor industry development. Research Policy*, 35: 1314-1328. (2006).

²¹³ Demski, J.S. and G.A. Feltham, "Economic Incentives in Budgetary Control Systems". *The Accounting Review*, 53(2): 336-359. (1978)

hazardous as the agent acts against the moral obligation to act in the best interest of principal while the situation is however likened to shirking or hidden actions²¹⁴. For example, they can act responsibly and in line with the contract of employment to grab a chance of having pre-requisite consumption.

According to agency theory, a higher level of information is often required for companies with wider ownership as this kind ownership can generate more crises between the managers and stakeholders. It, therefore, implies that CG policies should be formulated by taking into consideration the likely occurrence of these crises with the aim of reducing the associated agency costs. Accordingly, CG plays an important role by adjudicating between the companies and their financial situations. For the fact that Intellectual Capital showcases the hidden treasure of a company and its competitive advantage, it is therefore very important for CG to formulate the intellectual capital reporting trends to reflect the significance and ability of the managers to give detailed information about the intellectual capital.²¹⁵

2.5.1.2 The Agency Conflicts

Previous studies highlighted two key problems that may arise from the agency relationship. The first problem may arise when the objectives or goals of the two parties are different. The second problem may be associated with the situation where the principal cannot have accurate information about the behaviour of the agent. The agency theory is therefore based on the assumption that the agency relationship is asymmetric since the principal is only interested in profit or return as the job is done

²¹⁴Bergen, M., Dutta, S., & Walker Jr, O. C. "Agency Relationship in Marketing: Review of the Implications and Applications of Agency and Related Theories". *Journal of Marketing*, 56:1-24. (1978)

²¹⁵Nikolaos S. Zourarakis. "Voluntary disclosure: Evidence from UK" (2009). Available at: [file:///Users/drramisweity/Downloads/Accountability_zourarakis%20\(3\).pdf](file:///Users/drramisweity/Downloads/Accountability_zourarakis%20(3).pdf)

by the agent. This is equally reflected in the attitude of the agents as they seem to be interested in their compensation rather than the primary interests of their organisations or principals. Based on this view, agency theory seems to be lagging behind in addressing and aligning the agency goals, preferences and actions. In public-owned companies, agency conflicts would be created especially for the shareholders and the agents about ownership and control. For instance, the major interests of shareholders often and normally lie in the maximisation of the value of their companies through improved share prices or dividends, whereas high compensations and perks are the major interest of the CEOs and their managers²¹⁶. In this view, agency theory posits that the dichotomy between ownership and control between the parties may bring about agency problem. In this regard, companies must be proactive by ensuring that they voluntarily and excessively disclose their corporate information against the mandatory disclosure. Such voluntary disclosure can be in different forms such as Internet financial reporting disclosure²¹⁷, corporate social reporting²¹⁸, and environmental reporting.²¹⁹

Agency conflicts as a result of the complexity of the agency relationships can be divided into two types:

a. Type I agency conflict occurs in a situation where no individual owner or a dominant shareholder can control the organisation, which implies that the ownership is widely dispersed. In this situation, it is extremely difficult to control the

²¹⁶Berle, A. and G. Means, "The Modern Corporation and Private Property". *The Macmillan Company*, New York. (1932).

²¹⁷Kelton, A.S. & Yang, Y., "The Impact of Corporate Governance on Internet Financial Reporting", *Journal of Accounting and Public Policy*, (2008).

²¹⁸Haniffa, R. M., & Cooke, T. E. "The impact of culture and governance on corporate social reporting", *Journal of accounting and public policy* 24, no. 5 (2005): 391-430.

²¹⁹Sun, Nan, et al. "Corporate environmental disclosure, corporate governance and earnings management". *Managerial Auditing Journal* 25, no. 7 (2010): 679-700.

management directly. This type of agency is common in developed Western countries such as the US and the UK.

b. Type II agency conflicts are common in Europe and East Asia where the ownership of the listed company is quite highly concentrated.²²⁰

2.5.2 Signalling Theory

In the circumstances involving information asymmetry,²²¹ signalling theory postulates that the companies often use their financial information to send good signals to the market.²²² It has however been shown that the cost of the signal is often higher for the bad company than for the good one. Importantly, the bad company may not find it worthwhile to mimic, and so the signal could be credible.²²³ Studies have also shown how a company could use debt as a costly signal to separate a good company from the bad one. Thus, managers can be encouraged to voluntarily disclose private information as this is expected to translate into a good signal about the performance of the company to the market, and subsequently reduces information asymmetry.²²⁴

The central proposition point of the signalling theory is that management gives additional information, which further indicates that the management is acting in the best interest of the shareholders. However, voluntary disclosure is one of the signalling means where companies would disclose more information than required,

²²⁰ Lim, B.L. and S.H. Yen, "Agency Problem and Expropriation of Minority Shareholders". *Malaysian Journal of Economics Studies*, 48(1):37-59. (2011)

²²¹ Akerlof, G. "The Market for Lemons: Quality Uncertainty and the Market Mechanism". *The Quarterly Journal of Economics*, 84(2): 488-500. (1970).

²²² Ross, S. "The determination of financial structure: the incentive-signaling approach". *Bell Journal of Economics*, 8(1): 23-40. (1977).

²²³ Spence, M. "Job market signaling". *Quarterly Journal of Economics*, 87(3): 355-374. (1973).

²²⁴ Ross, Stephen A. "The determination of financial structure: the incentive-signaling approach". *The bell journal of economics* (1977): 23-40.

which further indicates that they are better in performance.²²⁵ According to signalling theory, disclosure indicates a signal sent by the management (informed party) through the disclosure of risk and related information to the investors (uninformed) minimises informational asymmetry.²²⁶ Importantly, information disclosure also influences the decision of financial statement users to make an improved investment decision and perhaps reduce misallocation of resource in the economy.²²⁷ Also, the advocates of the signaling theory suggested that when good signals are sent to the interested parties, information asymmetry could be reduced significantly.²²⁸ Additionally, signalling theory provides evidence that companies raising fund or capital disclosed substantial and greater amount of information voluntarily in their annual reports before capital-raising activity, which indicates that the capital-raisers give powerful and more intense signals than their non-capital-raiser counterparts.²²⁹

2.5.3 Legitimacy Theory

Studies on environmental disclosures have employed legitimacy theory as their conceptual framework to elucidate disclosures.²³⁰ The condition of legitimacy exists where the value system of a company aligns with that of the larger society where the company is operating, and it is a part. However, when actual or potential disparity exists between the values of the two systems, the legitimacy of the company in

²²⁵ Campbell, P. S. D. "Voluntary Disclosure of Mission Statements in Corporate Annual Reports: Signaling What and To Whom? [The author]." (2001).

²²⁶ Morris, R.D., "Signaling, agency theory and accounting policy choice", *Accounting and Business Research*, 18, 69, 47-56. (1987).

²²⁷ Watts, R.L. and Zimmerman, J.L. "Positive accounting theory". Prentice-Hall, Inc. (1986).

²²⁸ An, Yi, Howard Davey, and Ian RC Eggleton. "Towards a comprehensive theoretical framework for voluntary IC disclosure". *Journal of Intellectual Capital* 12, no. 4 (2011): 571-585.

²²⁹ Abdul Halim, H. "Voluntary disclosure of intangibles by capital-raising companies in Australia." PhD diss., University of Tasmania, (2011).

²³⁰ Wilmshurst, T.C. & G.R. Frost "Corporate environmental reporting – A test of legitimacy theory", *Accounting, Auditing & Accountability Journal*, 13(1): (2000), 10-26

question is threatened. This situation suggests that companies must continually ensure that they operate within the bounds, ambits and norms of the societies where they operate.²³¹ It is this notion that the concept of a social contract between the society and the organisation seems to be operating. This concept obliges a company to voluntarily report its activities to the society, especially where the management of such company perceives that the society expects such information.²³² Since the aim of accounting is to provide users with certain information which will help them in decision making, that is, satisfy social interests, the legitimacy theory has therefore been incorporated into accounting studies through which better explanation about what, why, when and how certain items are addressed by the management in their corporate communication with outside world”²³³.

There are two broad streams of studies in this area. While some studies examined companies that experienced threats in their legitimacy (for example, a pollution incident, a major oil spill, etc.),²³⁴ other studies approached legitimacy theory from a more general perspective. For instance, the ‘general form’ has been interpreted as examining whether companies are disposed to emphasising positive, instead of, negative information about the organisation. The present exploratory research adopted the latter approach because it provides good insights into corporate social and environmental reporting practices.²³⁵ Based on the anecdotal evidence of improved awareness by the members of the society regarding the impacts of

²³¹Lindblom, C. K. "The implications of organizational legitimacy for corporate social performance and disclosure". In *Critical perspectives on accounting conference*, New York, vol. 120. (1994).

²³²Guthrie, J, Petty, R. and Yongvanich, K. (2004)

²³³ Magness, V. "Strategic posture, financial performance and environmental disclosure: An empirical test of legitimacy theory", *Accounting, Auditing & Accountability*, Vol.19 No.4, pp. 540-563. (2006),

²³⁴ Patten, D. M. "Intra-industry environmental disclosures in response to the Alaskan oil spill: A note on legitimacy theory". *Accounting, Organisations and Society*, 15(5), 471-475. (1992).

²³⁵ Gray, R., Owen D. and Adams, C. "Accounting and Accountability". *Prentice Hall Europe, Great Britain*. (1996).

businesses activities in Malaysia, legitimacy theory, therefore, suggests that business organisations must take appropriate steps to lessen the burden and make the activities of the company acceptable to the society. Consequently, companies may employ their annual reports as a veritable tool of portraying the company as environmentally responsible so that they will be perceived by society as such.²³⁶

From the legitimacy theory perspective, the disclosure of information is a tool being used by organisations to appear that they are operating by the societal values and being socially responsible for gaining or sustaining legitimate social presence.²³⁷ Importantly, previous scholars have used this theory to analyse social and environmental accounting of companies.²³⁸ Guthrie argued that legitimacy theory is closely tied to the intellectual capital reporting. In his view, companies have the tendency of reporting their intangibles if specific needs to do it arise, which is highly important as their legitimacy cannot be established through “hard” assets which are often recognised as a traditional symbol of corporate success.²³⁹ Scholars have also argued that legitimacy theory is used to explain how disclosure of social and environmental information can be used to bridge or narrow the gap between the actions of a company and social concerns,²⁴⁰ which indicates that companies must continue to seek, merge and harmonize the relationship between the societal perceptions about their social concerns and their activities or other actions that are

²³⁶ Ahmad, N. N. N., & Sulaiman, M. “Environmental disclosures in Malaysian annual reports: A legitimacy theory perspective”. *International Journal of Commerce and Management*, 14,44-58. (2004).

²³⁷ Patten, D. “Media exposure, public policy pressure, and environmental disclosure: an examination of the tri data availability”, *Accounting Forum*, 26(2): 152-171. (2002).

²³⁸ Guthrie, J. and Parker, L. “Corporate Social Reporting: A Rebuttal of Legitimacy Theory”, *Accounting and Business Research*, 19 (76): 343-352. (1989).

²³⁹ Guthrie, J, Petty, R. and Yongvanich, K. (2004).

²⁴⁰ Campbell, D., Craven, B., and Shrivies, P. “Voluntary social reporting in three FTSE sectors: A comment on perception and legitimacy”. *Accounting, Auditing & Accountability Journal* 16:558-58. (2003).

targeted towards fulfilling the corporate needs.²⁴¹ Ultimately, legitimacy theory places emphasis on the way corporate management responds to the expectations of the community²⁴², and environmental or annual reports remain an important avenue through which companies can reinforce their corporate responsibility for the environmental situations.²⁴³

Legitimacy theory is premised on the perception of the larger society as the management is compelled to perform disclosure that would change the thinking and perception of external users about their companies.²⁴⁴ Importantly, the annual report has been identified as a veritable source of company's legitimation.²⁴⁵ Legitimization obviously can be achieved through mandatory disclosures – disclosing information in the financial statements as required by the regulations and voluntary disclosures by adhering to the provisions of other sections of the annual report.²⁴⁶ Legitimacy theory, therefore, recommends that larger or bigger companies need to be more responsive than small companies about more disclosures to have a greater influence on social expectations as bigger companies have more stakeholders than small companies.²⁴⁷ Many extant studies²⁴⁸ have found a positive correlation between the

²⁴¹ Deegan, C. "Introduction: the legitimising effect of social and environmental disclosures- a theoretical foundation". *Accounting, Auditing & Accountability Journal*, 15(3), 282-311.(2002).

²⁴² Tilt, C. A. "The influence of external pressure groups on corporate social disclosure". *Accounting, Auditing & Accountability Journal*, 7(4), 56-71. (1994).

²⁴³ Deegan, C., & Rankin, M. "Do Australian companies report environmental news objectively? An analysis of environmental disclosures by firms prosecuted successfully by the Environmental Protection Authority". *Accounting, Auditing & Accountability Journal*, 9(2), 52-69. (1996).

²⁴⁴ Cormier, D & Gordon, IM, "An examination of social and environmental reporting strategies", *Accounting, Auditing and Accountability Journal*, vol. 14, no. 5, pp. 587-616. (2001).

²⁴⁵ O'Donovan, Gary. "Environmental disclosures in the annual report: Extending the applicability and predictive power of legitimacy theory". *Accounting, Auditing & Accountability Journal* 15, no. 3 (2002): 344-371.

²⁴⁶ Lightstone, K., & Driscoll, C. "Disclosing elements of disclosure: a test of legitimacy theory and company ethics", *Canadian Journal of Administrative Sciences/Revue Canadienne des Sciences de l'Administration* 25, no. 1 (2008): 7-21.

²⁴⁷ Cowen, S. S., Ferreri, L. B., & Parker, L. D. "The impact of corporate characteristics on social responsibility disclosure: A typology and frequency-based analysis". *Accounting, Organizations and society* 12, no. 2 (1987): 111-122.

²⁴⁸ Cormier, D., & Gordon, I. M. (2001).

size of the companies and the quantity of environmental disclosure in corporate annual reports.

2.5.4 Proprietary Costs Theory

Advocates of proprietary theory assert that companies often decrease the degree of information disclosure because of preparation and competitive costs. For instance, when the costs of proprietary are high, experience has shown that most companies switched from full to partial disclosure.²⁴⁹ Voluntary disclosures assist companies to decrease the capital cost and information asymmetry.²⁵⁰ Nevertheless, companies do limit the rate of voluntary disclosure especially when it is accompanied by some proprietary costs.²⁵¹ Occasionally, companies may disclose additional social information with the intent of distracting various groups of stakeholders from their terrible economic performance and vulnerability especially during economic recess. Additionally, the theory considers the costs of disclosures and the sequential benefits. In this instance, managers take into consideration the costs of disclosure but do not disclose when costs outweigh the benefits. These costs include the cost of preparing and disseminating the information as well as the costs of appropriating competitors' information. Even though investors are aware of this, they do not apply adverse selection. Proprietary cost theory applied to disclosure is analytically developed.²⁵²

²⁴⁹ Wagenhofer, A. "Voluntary disclosure with a strategic opponent". *Journal of Accounting and Economics*, Vol. 12, pp. 341–363.(1990).

²⁵⁰ Grossman, S. "The informational role of warranties and private disclosure about product quality". *Journal of law and economics* (1981): 461-483.

²⁵¹ Prencipe, A. "Proprietary Costs and Determinants of Voluntary Segment Disclosure: Evidence from Italian Listed Companies". *European Accounting Review*, Vol.13 No.2, 319-340. (2004).

²⁵² Darrough, M. N., and N. M. Stoughton. "Financial Disclosure Policy in an Entry Game", *Journal of Accounting and Economics*, Vol. 12, 1-3, 219-243. (1990).

This theory has been empirically applied to elucidate voluntary disclosures on segment reporting.²⁵³

However, the disclosure of information by a company to investors can destroy the competitive position of the company in product markets.²⁵⁴ Therefore, it is essential for the company to trade off the positive impacts of disclosure against its negative impacts in the presence of proprietary costs. However, it has been argued that the company's profit cannot be reduced as a result of revealing information to the competitors; similarly, companies will also be in a mutual vantage position if they share information as this will help them coordinate actions.²⁵⁵ Other factors determine the outcomes or consequences of disclosure and these include the nature of private information, type of market competition, and the threat being posed through the entrance of new companies into the market.²⁵⁶ However, there is little direct evidence on this hypothesis.²⁵⁷ Evidence suggests that companies that work with fewer barriers in the market tend to disclose optimistic news within cash distributions instead of accounting disclosures to reproduce opportunistic behaviour as managers attempt to exploit the contradictions among them and external users by manipulation reporting²⁵⁸.

The discretionary disclosure theory and proprietary costs maintain that companies have the motivations to disclose relevant information voluntarily to the market with

²⁵³ PRENCIPE, A. (2004):

²⁵⁴ Darrough, M. "Disclosure Policy and Competition: Cournot vs. Bertrand", *The Accounting Review*, 8(3):534-561. (1993).

²⁵⁵ Ibid

²⁵⁶ Darrough, M. and Stoughton, N. (1990).

²⁵⁷ Healy, P. and Palepu, K. (2001) '

²⁵⁸ Merkl-Davies, Doris M., and Niamh M. Brennan. "Discretionary disclosure strategies in corporate narratives: incremental information or impression management?." (2007).

the purpose of reducing information asymmetry and capital cost.²⁵⁹ Furthermore, the theory maintains that companies reduce the rate of voluntary disclosure when they realise that the costs of preparation, dissemination, audit and disclosure are larger than the anticipated benefits. The discretionary costs which the companies are likely to incur include either bargaining or competitive disadvantage. Such costs arise as a result of providing strategic information either to the existing or potential competitors, customers and suppliers. In segment reporting, for instance, this may indicate that business opportunities exist to the competitors and this may constitute a threat to the disclosing company's competitive position. Therefore, the competitive costs which arise as a result of disclosing such information can be specifically high for the growing companies. This assumption was confirmed by surveys of financial directors and audit managers which revealed that the fear of competitive disadvantage from disclosing segmental information was real.²⁶⁰

However, Proprietary costs have been argued to be capable of inducing companies to provide disaggregated information in a situation where they have similarly performing business segments. Companies with widely varying performance across other business segments, however, have the motivations to hide these differences from competitors.²⁶¹ Very little or limited empirical evidence is available for the proprietary cost theory.²⁶²

²⁵⁹ Verrecchia, R. "Discretionary Disclosure", *Journal of Accounting and Economics*, 5:179-194. (1983)

²⁶⁰ Susela Devi, S., and Veerinderjeet S. "Segmental reporting in Malaysia: Relevance, extent of compliance and disclosure". *Akauntan Nasional*, (April), 12-20. (1992).

²⁶¹ Hayes, R., Lundholm, R. "Segment reporting to the capital market in the presence of a competitor". *Journal of Accounting Research* 34, 261-280. (1996).

²⁶² Healy, P. M., & Palepu, K. G. "Information asymmetry, corporate disclosure, and the capital markets: A review of the empirical disclosure literature." *Journal of accounting and economics* 31, no. 1-3 (2001): 405-440.

2.5.5 Capital Need Theory

The aim of attracting external finance by companies is to increase their capital, which can be achieved either through equity or debt. The tenet of capital need theory is that voluntary disclosure is a veritable tool that companies can use to achieve this objective at a low cost.²⁶³ Healy and Palepu supported the view that financial disclosure options for managers are linked to contracting, political costs, and capital market considerations²⁶⁴.

Evidence indicated that the need for capital brings about increased voluntary disclosure. In 2001, according to the improved business reporting: Insights into enhancing voluntary disclosure, which is published by the financial accounting standards board as part of their broader business reporting research project, the competition for capital leads to increased voluntary disclosure. The rationale beyond this is the fact that “a company’s cost of capital is believed to include a premium for investors’ uncertainty about the adequacy and accuracy of the information available about the company”.²⁶⁵

Therefore, companies can achieve a reduction in the cost of capital when investors can interpret their economic positions or prospects through voluntary disclosure. Extant studies have established that the relationship between the cost of capital and voluntary disclosure seemed to be positive; the higher the information disclosures, the lower the cost of capital

²⁶³ Choi, F.D.S. "Financial disclosure and entry to the European capital market." *Journal of Accounting Research* (1973): 159-175.

²⁶⁴ Healy, P. M., & Palepu, K. G. (2001).

²⁶⁵ Shehata, N. F. "Theories and Determinants of Voluntary Disclosure". *Accounting and Finance Research* (AFR), 3(1). (2014).

2.6 Corporate Governance Quality and Voluntary Disclosure

As a part of the signaling theory, a high-quality company will voluntarily disclose additional information than a poor-quality company, as this will send a signal to investors that the former is a good and high-performing company.²⁶⁶ From this point of view, companies with high-quality CG have the incentives of informing all investors about their qualities. The evidence suggested that companies of high quality indicate their CG quality through voluntary disclosure in annual reports. Disclosures of high CG quality are not easy to imitate by poor quality companies. Importantly, the disclosures have the potential of increasing the value of the company as knowledgeable investors will assume that investment in companies with high-quality CG is less risky than investing in poor quality companies.²⁶⁷

Agency theory is also used to explain the reasons managers disclose information voluntarily. Evidence showed that agency conflicts which occur between the shareholders and managers of a company arise as a result of the separation of ownership and control. Managers, therefore, have the motivation to implement better governance mechanisms like voluntarily disclosure practices as this would help reduce agency conflicts and monitor the activities that are imposed by the shareholders to control their behaviour.²⁶⁸ Other studies found that the degree of CG mechanisms in a company was determined by the level of agency conflicts the company had, which means that companies with high degrees of agency conflicts

²⁶⁶ Dye, Ronald A. "Disclosure of nonproprietary information". *Journal of accounting research* (1985): 123-145.

²⁶⁷ Lokman, Norziana, Joseph M. Mula, and Julie Cotter. "Corporate governance quality and voluntary disclosures of corporate governance information: Practices of listed Malaysian family controlled businesses". In *Proceedings of the Family Business Research and Education Symposium* (FBA 2011). Family Business Australia, 2011.

²⁶⁸ Farvaque, E., Refait-Alexandre, C., & Saidane, D. "Corporate disclosure: A review of its (direct and indirect) benefits and costs". *Economie internationale* 4 (2012): 5-31.

have the tendency to adopt effective CG mechanisms. Hence, a company with high CG quality is expected to increase voluntary disclosure to reduce agency conflicts.²⁶⁹

Several existing studies have examined the relationship between CG and voluntary disclosures.²⁷⁰ The results of these studies indicated that good CG inspires companies to deliver strong and appropriate disclosures. The studies used either one or more CG mechanisms to measure companies' CG quality. In contrast, to examine the relationships between company CG quality and voluntary disclosure, Beekes et al. employed a wider set of CG mechanisms,²⁷¹ for instance, in formativeness and price sensitive announcements to the share market in Australian companies. The study employed a CG index that was developed by the Howarth Report 2002 to measure CG quality among 250 Australian companies. The company revealed that Australian companies that exercise good CG give accurate information from those that have not made useful announcements.²⁷² Lokman et al. investigated the relationship between voluntary disclosure and CG quality of extended CG information of PLCs. Their findings revealed that a company that engaged in the practice of voluntary disclosure of CG had high CG quality.²⁷³

2.7 The Disclosure Policy in Malaysia

Disclosure in the broadest sense of the word means the release of information. In accounting, disclosure means a company's release of information about its resources

²⁶⁹ Cohen, Daniel A., Aiysha Dey, and Thomas Z. Lys. "Real and accrual-based earnings management in the pre-and post-Sarbanes-Oxley periods". *The accounting review* 83, no. 3 (2008): 757-787.

²⁷⁰ Stephens, Nathaniel M. "Corporate governance quality and internal control reporting under SOX Section 302". Available at SSRN 1313339 (2009).

²⁷¹ Cotter, Julie, Norziana Lokman, and Muftah M. Najah. "Voluntary disclosure research: which theory is relevant?". *The Journal of Theoretical Accounting Research* 6, no. 2 (2011): 77.

²⁷² Beekes, Wendy, Philip R. Brown, and Germaine Chin. "Do better-governed firms make more informative disclosures? Canadian evidence". Canadian Evidence, (May 2007) (2007).

²⁷³ Lokman et al. (2011)

and performance to those having reasonable rights to such information. Disclosure can be defined as

"A whole array of different forms of information produced by companies, Such as annual report which includes the director's statement, the Operating And Financial Review (OFR) [1], the profit and loss account, balance sheet, cash flow statement and other mandatory items. It also includes all forms of Voluntary corporate communications, such as management forecasts, analysts' Presentations, and the AGM, press releases, information placed on corporate website and other corporate reports, such as stand alone environmental or social reports".²⁷⁴

Disclosure may be provided by companies either through its published annual reports, including the financial statements, footnotes, and management discussion, or through other media such as conference calls, press releases, and Internet sites. Some disclosure about companies' performance, however, may be released by intermediaries such as financial analysts and industry experts. Prior researchers noted that corporate disclosure is needed to reduce information asymmetry and agency conflicts between managers and outside investors.²⁷⁵

There are two types of corporate disclosure, namely, mandatory disclosure and voluntary disclosure. Mandatory disclosure refers to the information that is imposed on the companies by laws from regulatory organizations, stock exchanges regulations, or accounting standards. The company laws and accounting standards normally prescribe minimum disclosure requirements, but do not prohibit companies

²⁷⁴Healy, P. M., &Palepu, K. G. (2001).

Solomon, Jill. Corporate governance and accountability. John Wiley & Sons, 2007.

²⁷⁵Healy, P. M., &Palepu, K. G.(2001).

from going beyond these minimum requirements by providing additional voluntary information, i.e. accounting information that the company itself chooses to disclose for different reasons. As such, voluntary disclosures can be defined as

“Disclosures in excess of requirements, representing free choices on the part of company managements to provide accounting and other information deemed relevant to the decision requirements of the users of their annual reports.”

Since information is crucial in this process it is important to assess the extent to which voluntary disclosure occurs in corporate annual reports.²⁷⁶ In respect of disclosure, several countries around the world have adopted the CG codes as Malaysia has. The Code was approved by the HLFC and released in 1999. The code was adopted by BM in its listing rules, which took effect in January 2001. The focus of CG includes accountability, internal control system, the composition of the board, and the remuneration of the directors of the board. These Codes are also mechanisms to help organizations achieve their objectives while disclosure is useful for companies to assess their corporate performance.²⁷⁷ The Code also sets out the best practices and rules of the organization as well as the processes to achieve better standards of CG. Whereas adherence to disclosure is not compulsory, the Code has motivated companies to always review their disclosure rate and their CG practices compliance level.²⁷⁸

²⁷⁶ Meek, Gary K., Clare B. Roberts, and Sidney J. Gray. (1995).

²⁷⁷ Akhtaruddin, M., Hossain, M. A., Hossain, M., & Yao, L. "Corporate governance and voluntary disclosure in corporate annual reports of Malaysian listed firms". *Journal of Applied Management Accounting Research* 7, no. 1. (2009): 1-19.

²⁷⁸ Development (OECD). Steering Group on Corporate Governance. OECD Principles of Corporate Governance 1998. OECD Publishing, (1998).

The legal basis for disclosure comes from company law, which usually determines the basic information rights of shareholders and disclosure requirements. There is additional information requirement declared by the SC and BM about the specific content, format, frequency, and time which information should be disclosed. Additionally, disclosure of financial information especially for PLCs must be in line with the requirements of the CA 2016, as enforced by the SC and the BM. As of early 2000, the SC started implementing Disclosure-Based Regulations on listed companies to guarantee that the disclosure is done in line with the CG disclosure.²⁷⁹

Before the meltdown in East Asia in 1997, the CG disclosure was simple. Disclosure by companies was carried out based on the preferences and information at their disposal without following any specific guidelines. However, when the economic crisis emerged, there was a necessity for appropriate guidelines on how disclosure should be done and proper recommendations on how companies should render their returns. Hence, disclosure of information is compulsory as indicated in “CMSA, CA and BMLR” also it is voluntary as in “MCCG”.²⁸⁰ As a result of a series of events discussed earlier, numerous reforms had taken place at the regional and international levels which focused on how disclosure exercise should be improved to meet the practices around the world and protect the interests of all the stakeholders.²⁸¹ As OECD Code emphasizes, a strong and effective disclosure is the premise upon which transparency and healthy market are based, which can lead to increased confidence

²⁷⁹Zakaria, M. "Corporate Governance and Disclosure Practices among Malaysian Companies". *A project submitted to the Graduate School in partial fulfilment of the requirement for the degree of Master of Business Administration*. (2001).

²⁸⁰Development (OECD). Steering Group on Corporate Governance. *OECD Principles of Corporate Governance* 2004. OECD Publishing, (2004).

²⁸¹Pacific Economic Cooperation Council [PECC]. 2001. PECC Statement to the SOM I, Beijing, China, February (2001). Available at: <http://www.pecc.org>.

of the shareholders.²⁸² Also, the OECD emphasizes that an important tool of CG is disclosure and that is capable of reducing excessive substantive regulation when it is properly done.²⁸³

Disclosures have been defined as “communication of information, quantitative and qualitative by companies, whether statutory or voluntary, which facilitates the users in making informed economic decision”. Given these, efforts have been made to define voluntary disclosure as additional information which corporate entities provide for the capital market along with the standard disclosure that is required by the SC.²⁸⁴ In this sense, there is room for discretion for companies to exercise while disclosing any amount of information to be provided during disclosure.²⁸⁵ In line, transparency and honest disclosure is the bedrock that can bring about a robust CG framework since shareholders, stakeholders, and other investors use such information for decision making and monitoring of performance. The good disclosure also helps investors and lenders to assess and know the risks that are inherent in their investment portfolio and know where they are investing their money. Furthermore, when appropriate quality corporate disclosure is done, it helps investors know the extent which the companies are complying with the legal requirements and ethical standards. Such disclosure also aids the shareholders to have correct information

²⁸² Cheung, S. Y. L., Connelly, J. T., & Limpaphayom, P. "Determinants of Corporate Disclosure and Transparency." *International Corporate Responsibility Series* 3 (2007): 313-342.

²⁸³ McGee, Robert. "Corporate Governance in Transition and Developing Economies: A Case Study of Egypt." Available at SSRN 1665058. (2010).

²⁸⁴ Lang, M. H., & Lundholm, R. J. "Corporate disclosure policy and analyst behavior". *Accounting review*. (1996): 467-492.

²⁸⁵ Ibid

about the performance of the corporation management so that the investors can take necessary decisions where and when it is required.²⁸⁶

It has generally been agreed that CG is an important issue which has serious and positive impacts on financial reporting. CG promotes accountability, fairness and transparency due to appropriate financial disclosure by as PLCs.²⁸⁷ When companies are not transparent, the incentives of directors can be distorted, and over-investment will occur, leading to the indebtedness of the corporate organisations. It is also important to state that when disclosure is not made appropriately, the situation of corporate entities will deteriorate; so, companies are required to be more transparent, accountable, and make full disclosure in their dealings.²⁸⁸

The essence of proper disclosure is to inform investors of the financial condition of the company in which they invest to make informed decisions²⁸⁹. Since the main objective of a company is to succeed in its business and enhance the value of shareholders, every effort should be made to ensure that the shareholders are supplied adequate information²⁹⁰. Disclosure of information protects the interest of the shareholders and allows the market to be liquid and efficient especially when information is accessible.²⁹¹ The disclosure also brings about an understanding of activities, especially with regards to policies that are guiding the activities and performance in respect of the environment and ethics as well as the company's

²⁸⁶Kanda, H. "Disclosure and corporate governance: a Japanese perspective". *Corporate Governance Corporate Governance in Asia A Comparative Perspective: A Comparative Perspective*. (2001): 149.

²⁸⁷Rahman, A. A. "The use of annual reports by Malaysian financial analyst – A preliminary survey". *Akauntan Nasional*, November/December, pp 26-32. (1999).

²⁸⁸Zakaria, M. (2001). P32

²⁸⁹White, Mary Jo. "The Path Forward on Disclosure." In *National Association of Corporate Directors-Leadership Conference*. 2013.

²⁹⁰Porter, Michael E., M. Goold, and K. Luchs. "From competitive advantage to corporate strategy." *Managing the multibusiness company: Strategic issues for diversified groups* 285 (1996): 285-314.

²⁹¹Development (OECD). *Steering Group on Corporate Governance. OECD Principles of Corporate Governance* 2010. OECD Publishing, (2010).

relationship with investors, shareholders, and members of the community who are likely to be affected by the company's operation. Given this, a friendlier atmosphere and environment can be developed.²⁹² It has been discovered that excessive risk and a lack of transparency by companies can spell trouble for companies and their investors, which manifested in the global crisis. Hence, it is important for companies to make adequate disclosure and be transparent to protect the investors and improve the confidence in the market.²⁹³

Transparency and disclosures, includes actions by a variety of market members, from boards, gatekeepers, influencers and other stakeholders as it covers processes from verification, the limitation of information for publication and communication. Quantitative and qualitative corporate information is then disseminated through various periodic reports, such as quarterly and annual reports, additional disclosures, and several media or other stakeholder engagement sessions. Boards and gatekeepers have an obligation to ensure that the statements and supporting information provided are complete and accurate. In this regard, the value of disclosures can be assessed regarding how useful the information delivered is in assisting investors and other stakeholders to make judgments on a comparable basis across a wide range of investment opportunities.²⁹⁴ It is important to state that adequate financial disclosure is not just enough for CG to be effective; other information must also be declared.

²⁹² SC. (2011). P30

²⁹³ Ibid

²⁹⁴ Ibid

2.8 Transparency in Financial Reporting

Financial reporting is an essential tool used by investors to make an investment decision. Financial transparency means that an outsider should be able to read and understand the company's financial statements easily. Transparency plays a key role in accessing external capital and reducing the cost of capital because it reduces the risk of information - the risk of loss due to lack of information or uncertainty of information²⁹⁵. Evidence indicates the risk of financial reporting is that companies do not provide fair value of financial statements either intentionally or by mistake. For instance, the management may deliberately refuse to give particular information to various users of financial statements, thereby misleading the users about the company's operations. Without the provision of the necessary information, it is impossible to comprehend a company's financial condition completely.²⁹⁶

Transparency in the financial reporting, therefore, allows creditors, investors, and other stakeholders to assess the financial condition of a company. Apart from assisting investors to make sound decisions, transparency also increases the confidence of the investors about the fairness of the markets. Therefore, it is essential that the regulators ensure that the markets are fair, proficient, and transparent by giving fair access to the market, price or corporate information. Such fairness and transparency are the keys to success as unclear and complex financial report will not allow the investors to know the inherent genuine risks and the real fundamentals of the company.

²⁹⁵ Bushman, Robert M., Joseph D. Piotroski, and Abbie J. Smith. "What determines corporate transparency?." *Journal of accounting research* 42, no. 2 (2004): 207-252.

²⁹⁶ Fung, Benjamin. "The Demand and Need for Transparency and Disclosure in Corporate Governance". *Universal Journal of Management* 2, no. 2 (2014): 72-80.

Additionally, transparency is essential to CG as it is used by the board of directors to assess the effectiveness of the management and to take early precautions, when necessary, to address any form of deterioration in the financial condition of the companies.²⁹⁷ Therefore, it is essential that all public companies provide a clear, detailed, and reliable picture of their financial status and performance. If the information provided in the financial reports is clear, investors and other users of financial information will not be taken by surprise as a result of unknown transactions or other events. Modern investors and creditors expect clear, consistent, reliable, comparable, and transparent reporting of events. Accounting standards in this respect should give a framework to ensure that financial information is presented in such a way that will help investors make informed decisions. Consistent and meaningful accounting standards and comparable practices are the prerequisites required by investors to make vital decisions, which can be made through a company's financial statements. Good financial disclosure, in essence, becomes a CG tool used to form expectations concerning the future performance of a company.²⁹⁸

Importantly, the corporate reporting does not focus on historical results only; it now includes future elements on guidance on future revenue and earnings targets. Additionally, some emergent issues such as non-financial and financial performance metrics need to be reported concurrently. The reporting of such information is in line with the publication of the guidance on good practices in CG disclosure by the United Nations conference on trade and development 2006 which emphasises that other non-financial disclosure must be made along with financial disclosures. The

²⁹⁷ Fung et al. (2014)

²⁹⁸ Ibid

non-financial disclosures may include the objectives of the company, ownership and rights of shareholders, changes in control and transactions involving significant assets, and governance structures and policies, etc.²⁹⁹

Given the fact the international capital market is highly volatile, it is, therefore, important that companies must be adequately transparent in their reporting and disclosure. Such practice concurs with the position of CG advocates that postulate that sound CG mechanisms are pivotal in sound corporate financial reporting practices as they help ease tensions in the international markets.³⁰⁰

2.9 Corporate Disclosure Trend in Malaysia

Malaysia has implemented many measures to make the capital markets attractive and competitive for investors. A three-phase programme towards disclosure-based regulation began in 1996 to reduce the involvement of the SC in assessing the merit of investment opportunities and enhancing the role of issuers and their advisers and investors in capital allocation and decision-making.³⁰¹ These changes were necessary to progress the Malaysian capital market to become more efficient and to be a credible market of international standing.

The three tenets of disclosure-based regulation are disclosure, due diligence, and CG. Under the disclosure-based regulation, it is the responsibility of the directors of PLCs for ensuring that all material information required by the public to make investment decisions is provided accurately, in full, and on a timely basis. Before 1996,

²⁹⁹UNCTAD, W. "Guidance on Good Practices in Corporate Governance Disclosure". *United Nations Conference on Trade and Development*. World Investment. (2006).

³⁰⁰ Ibid

³⁰¹ Allan Chang A. L., (2004). p1

Malaysia implemented a merit- based regime in deciding on the suitability of a company for listing and the pricing of new issues, which was usually based on the need to protect the interest of minority shareholders. The introduction of disclosure-based regulation-oriented approaches implies that companies are required to disclose all material information at the time of new listings, as well as on a periodic or continuing basis after that depending on the type of information to be disclosed.³⁰²

To enhance market incentives, BM has instituted regulations that call for timely disclosure of material financial and corporate information from listed companies. Regarding disclosure policies, the BM-PWC survey in 1998 revealed that most of the companies had already established formal policies and procedures to monitor the degree of compliance with the requirements.³⁰³ It has been pointed out that Malaysia scored relatively high, even by international standards, for the general quality of its auditing and financial reporting.³⁰⁴ This can be attributed to the adoption of accounting standards committee (IASC) since 1997s. In 1997, the Malaysian government established the Malaysian accounting standards board (MASB) under the Financial Reporting Act 1997 (FRA) as the sole authority to set up and enhance the accounting standards in the country. Its aim is to keep pace with the international accounting practices and to lay the foundation for a more efficient financial reporting regime in the country, among others.³⁰⁵

³⁰² Hua, Loh Leong, and Ragayah Haji Mat Zin. (2007).

³⁰³ Price Waterhouse Coopers (PWC). "Survey of corporate governance in Singapore". (1997).

³⁰⁴ Capulong, V., Edwards, D., Webb, D., & Zhuang, J., (Eds). "Corporate governance and finance in East Asia". *A Study of Indonesia, Republic of Korea, Malaysia, Phillippines and Thailand: Vol. 1 (A Consolidated Report). Asian Development Bank's regional technical assistance* 5802. (2000).

³⁰⁵ Thillainathan, R. "Corporate Governance and Restructuring in Malaysia". *Corporate Governance Corporate Governance in Asia A Comparative Perspective: A Comparative Perspective* (2001): 275.

The measures of the Malaysian regulations include the refinement of requirements for disclosure and enforcement powers, good CG, and refurbishing of listing requirements. In this regard, PLCs are required to ensure that shareholders are provided with the required information on the issuance of securities, acquisitions, restructuring, and merger exercises. The emphasis made by the SC on how to maximise shareholder value includes appropriate training for the management of the company and members of the board of directors.³⁰⁶ It is also the purpose of the SC to improve the channels of communications between companies and their investors. Even though information disclosure is often done by legislation, other procedures such as filing and information access are often cumbersome and costly. One of the steps to investigate this issue is to set up a unit that relates to investors such as requests and queries regarding investment.³⁰⁷

In September 2011, in line with the objective to ensure that standards of disclosure are enhanced, corporate disclosure guide was issued by BM to help listed issuers understand what disclosure obligations are and how compliance should be carried out.³⁰⁸ The 2011 CG Plan was launched and the Corporate Disclosure Guide was issued later to serve as a guide for companies that adopt appropriate disclosure and transparency in CG. Such move provided the basis for informed and improved decision-making process for the investors and shareholders. The plan also provided a basis and guidelines for the intermediaries who act as watchman between shareholders and companies on how to play their important roles towards ensuring

³⁰⁶ Allan Chang A. L., (2004). P1

³⁰⁷ Ibid

³⁰⁸ Securities Commission Malaysia (SCM) & Bursa Malaysia Securities Berhad (BMSB) "Best practice guide in relation to independent advice letters". December, (2012). Available at: http://www.sc.com.my/eng/html/consultation/121220_BP_Guide_IAL.pdf

discipline and transparency within the market. As independent advisers, they also help investors make informed decisions on corporate transactions that require the independent adviser appointment.³⁰⁹

2.10 The Best Practice in Malaysia

The principles of CG were initially developed in the US, UK, Australia, and South Africa through a series of the publications by CG committees, best practices codes, and principles of CG in the 1980s. However, the need for change came as a result of poor quality and ineptitude performance of some corporate organisations which led to the erosion of investors' confidence in the market. As stated earlier, it was the publication made by Cadbury in 1992 that formed a solid groundwork which eventually led the establishment of other codes and practices in other countries.³¹⁰ The Code was developed from the UK's experience set out in the Hampel Report by outlining the use of best practices which required appropriate disclosure on companies listed on the exchange. Though compliance was not to be strictly adhered to, each company was given flexibility in developing its approach towards compliance. Nevertheless, it clearly defined the standard that companies must adhere while ensuring that the investment community is able to receive explanations of the good CG approach to achieve the desired change in the investment community.³¹¹

To ensure effective CG, a certain set of principles for good CG was published in 1999. These publications were meant to help governments of various countries and

³⁰⁹ Ibid

³¹⁰ Cheah, F. S., & Lee, L. S. "Corporate Governance in Malaysia: Principle and Practices". *August Publishing Sdn Bhd.* (2009).

³¹¹ Malaysian Securities Commission. "Malaysian Code of Corporate Governance (Revised 2007). Securities Commission." Kuala Lumpur. (2007).

management of various corporate organisations to be adept and improve their legal and institutional framework, and CG practices. The principles also shed light into understanding what CG stands for and how it applies to all nations of the world, though the principles were not too binding.³¹² In 2004, the principles of OECD were revised to take into account new developments and concerns to maintain a non-binding principles-based approach, which recognises the need to adapt implementation to diverse economic and cultural conditions. Policy makers now appreciate CG practices and their contribution towards ensuring that the financial market is stabilised and attractive to new investors while the confidence of old investors is boosted.³¹³

MCCG started in 2000 to extraordinarily signify a milestone in the CG improvement in Malaysia. The development marked the establishment of best practices of governance in Malaysia and identified the best CG structures and internal processes. Furthermore, to make CG effective, the MCCG³¹⁴ used a ‘hybrid approach’ which means that non-prescriptive as well as the prescriptive approach was applied. The ‘prescriptive approach’ represents adequate “standards of desirable practices for disclosure of compliance”.³¹⁵ The basic intent of non-prescriptive approach is the “*actual disclosure of CG practices*”³¹⁶ as the MCCG permits, and it is flexible for a

³¹² Malaysian Securities Commission. (2007).

³¹³ Cheah, F. S. (2009). P36

³¹⁴ HLFC, (2000). P1

³¹⁵ Boo, Y. K. “Corporate Governance in Malaysia”, Review of Corporate Governance in Asia. November 2003. Asian Development Bank Institute. (2003). Available online: <http://www.adbi.org/files/2003.11.10.corporate.Governance.malaysia.pdf> [Accessed 15 July 2006]

³¹⁶ Ibid

more beneficial and elastic response to advance the standards of CG unlike most black and white responses created by the laws and principles.³¹⁷

The tenet of HLFC, the code of 2000 was created to assist disclosure through rules that require information for the stakeholders to make an informed decision and assess the performance of companies. The Code also lays the basics and the rules of the best practices and processes used by corporate organisations in their daily operations and guide the governance framework. The issues involved at this level are micro in nature and involves the procedures to be followed in recruiting new directors and their salaries, how to constitute board members and their functions, and the mandates given to the members of the board.³¹⁸

There are four sections/parts of the Code. They include 'principles of CG' 'best practices in CG', 'principles and best practices for other corporate participants', and 'the explanatory notes'. The MCCG clearly states what best practices are and how they will serve as guidelines for companies in making the adequate disclosure required by the BMLR. The Code aims at assisting companies in adhering to disclosure requirement to help boost their public image while increasing investor confidence. Therefore, the best practices as specified in the Code will go a long way to help companies adhere to what is already requisite by rules and guidelines. Also, the Code consists of important information to investors and auditors and briefly specifies their roles and how they can participate to improve the CG practices. The

³¹⁷HLFC, (2000). P1

³¹⁸ SCM and BMSB. (2012). P35

MCCG also explains what best practices are and clarifies the modes of action as recommended by the MCCG.³¹⁹

The Code, together with the establishment of CG guidelines in various countries in a similar period, aims at achieving the optimal governance framework through the external efforts by the government. However, if the board structure can be determined by the companies' specific factors to maximise its effectiveness, the imposed regulation may be a burden to the company. Thus, understanding the determinants of board structure has gained much attention in the recent studies.³²⁰ Finally, the Code lays out the rules to be followed to achieve best practices of good governance by describing the best internal processes and appropriate CG. The overall aim of the Code is to inspire disclosure, transparency in corporate organisations' activities, and enhance best practices.³²¹

2.11 Summary of Chapter

The Asian financial crisis in 1997, the corporate scandals, and the global financial crisis in 2008 have underlined the need for good CG and better disclosures. Regulatory authorities in Malaysia believe that the time is ripe to undertake measures to improve transparency and accountability. Mere adoption of rules and regulations to improve disclosure is not effective; instead, it is the concerted efforts of those in charge with the direct responsibility of determining corporate practices.

³¹⁹ Best practices in corporate disclosure, July (2004). Available at: http://www.sc.com.my/eng/html/cg/pdf/BestPracticesInCorporateDisclosures_bursaMalaysia.pdf

³²⁰ Germain, L., Galy, N., & Lee, W. "The Determinants of Corporate Board Size and Independence: Evidence from Malaysia". 29th International Conference of the French Finance Association. (2012). <http://ssrn.com/abstract=2083641> or <http://dx.doi.org/10.2139/ssrn.2083641>

³²¹ Best practices in corporate disclosure, July (2004). Available at: http://www.sc.com.my/eng/html/cg/pdf/BestPracticesInCorporateDisclosures_bursaMalaysia.pdf

CG is a key factor in corporate disclosure and has been given special attention since the late 1960s. However, there has been little research to investigate CG with the extent of corporate disclosure. The purpose of this thesis was to examine the application of the disclosure law, principles and requirements of PLCs in Malaysia. Furthermore, the issue of disclosure of information is considered the main area of research in this review. The findings of the most studies show that effective CG helps the investors to make their investment decision, control problems and draws a clear line between the shareholder and the companies. Finally, from the discussion of all articles, this review provides an overview of the principles of disclosure and best practices for companies for researchers and academic practitioners in CG.

Also, this evaluation saw CG from different theoretical perspectives. Agency theory essentially focuses on the conflicting interests of the principals and agents that provide the basis for governance standards, rules and principles developed by many institutions. The theory of legitimacy is based on the idea of a social contract between society and organisation. Political theory brings approaches to developing voting support from shareholders rather than buying voting power. However, other alternative theories of signalling theory, proprietary cost theory, and capital need theory have become prominent recently. Regardless the theoretical perspectives, past results seemed to suggest that the implementation of CG improves companies' performance. Past studies also pointed out that the application of a strong CG code by government agencies is required to improve the CG structure and a subsequent

company's performance. It was also reported that companies that exercise good CG (for example, have a higher independent board) have a high level of disclosure.³²²

The present study contributes to the literature on disclosure and CG by providing evidence of CG determinants in Malaysia. In the last three decades, Malaysia has witnessed significant developments and reforms in CG. These developments have led to increased awareness of the importance of corporate disclosure to maintain and strengthen investor relations to improve the overall market. Therefore, serious steps have been taken to promote transparency and best practices in the country.



³²² Jaffar, Romlah, Dina Mardinah, and Azlina Ahmad. "Corporate governance and voluntary disclosure practices: evidence from a two tier board systems in indonesia." *Jurnal Pengurusan (UKM Journal of Management)* 39 (2013).

CHAPTER THREE

RESEARCH METHODOLOGY

3.1 Introduction

This chapter presents the methodology of the present study, which will help in the next steps of investigation and analysis. The chapter highlights the research process beginning with the research framework, followed by explaining the research design, operational definitions, the study then display the scope of the study, and the types of data. The chapter also discusses techniques for collecting data and finally the analysis of data.

3.2 Research Framework

As stated earlier, weakness in CGH and lack of transparency and disclosure are considered causes of the Asian financial crisis in 1997, and the subsequent events of corporate collapses and accounting fraud. As a result of the meltdown, the government of Malaysia saw the need to keep the standard of CG in all companies to regain and re-secure investors' interest and confidence. The 2000 MCCG and its revisions in 2007, 2012 and 2017, BMLR, as well as CA 2016, SCA 1993 and CMSA 2007 have been recognised as the foundation for the improvement of the CG disclosure by PLCs.

Figure 3.1 shows the research framework of corporate disclosure that applies the principles of MCCG.

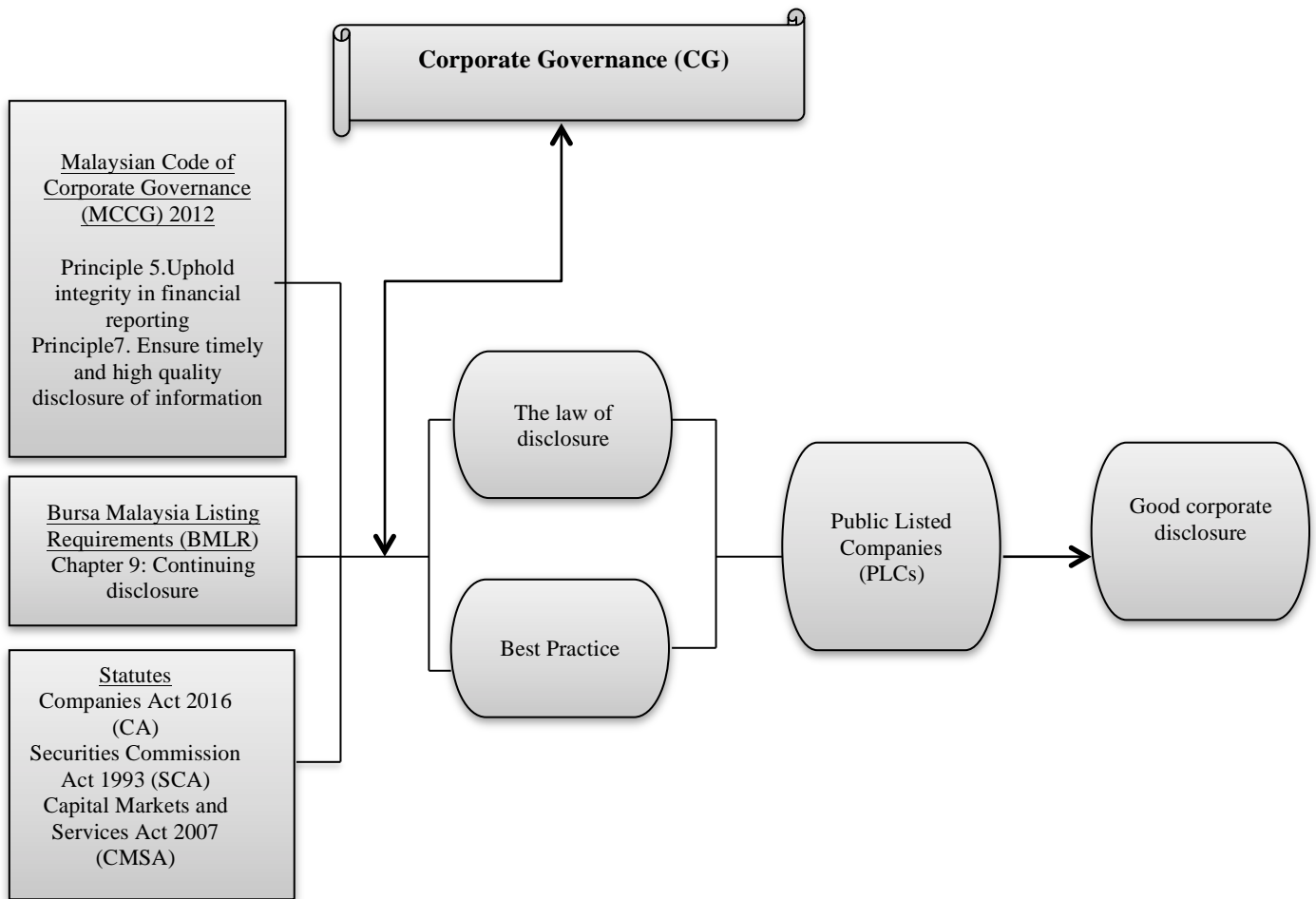


Figure 3.1: The research framework of corporate disclosure

Figure 3.1 illustrates the overall structure of the study. The expected links of corporate disclosure, as illustrated in Figure 3.1, set the research framework used to represent corporate disclosure using MCCG, BMLR and other statutes (CA 2016, SC 1993 and CMSA 2007). The study analysed the law and policy of corporate disclosure as well as the best practice and whether public listed companies implement the law and requirements of disclosure highly to have good CG and better disclosure.

This study discussed the disclosure principles applicable to MCCG particularly principle 5 on upholding integrity in financial reporting and principle 7 on ensuring

timely and high-quality disclosure of information, in addition to chapter 9 of BMLR (i.e. continuing disclosure) and other statutes (CA 2016, SCA 1993 and CMSA 1997). The study also explained how companies comply with the disclosure information indicated in both BMLR and MCCG since the former is considered part of law according to Section 8 and 11 of CMSA 2007. Additionally, the disclosure of information must be in line with the requirements of the Companies Act 2016, as enforced by SC as well as BM. The MCCG also aims to lay the foundation and sets out principles of best practices and processes that corporate organisations use daily. It also states what best practices are and how they serve as guidelines for companies towards making adequate disclosure as obligations under the BMLR. The implementation of the application of corporate disclosure of BMLR, MCCG, CA, SCA and CMSA among listed companies will uphold good CG and enhance companies to disclose timely information to the public.

3.3 Research Design

A research design is defined as “a procedural plan that is adopted by the researcher to answer questions validly, objectively, accurately and economically”.³²³ A research design helps a researcher to conceptualise an operational plan to undertake the various procedures and tasks required to complete the study and to ensure that these procedures are adequate to obtain valid, objective and accurate answers to the research questions. Numerous research designs are employed by researchers depending on the methodology they use. The sort of problem and objectives can influence the choice of the methodology.

³²³Kumar, Sameer, and Promma Phrommathed. “Research methodology”, Springer US, (2005).

In the present study, a qualitative methodology that is legal research was used to understand if PLCs in Malaysia are successful in adopting the disclosure policy. Through the use of the qualitative method, researchers can assess the validity and clarity of findings as a source of information for strategies and provide new knowledge.

Data for this study were collected by using qualitative method through a legal normative research approach.³²⁴ This approach consists of different approaches i.e. statutory approach, the conceptual approach, the analytical approach, and the case study approach. The present study used statutes, rules, and regulations to meet the objectives of the research. The process of legal research often involves investigation of other relevant disciplines.³²⁵ Therefore, the non-structured interview represented expert data of several key persons of regulatory authorities in Malaysia, such as Companies Commissions and SC.

Qualitative research methods have become increasingly an important mode of inquiry for CG,³²⁶ which is essentially conducted through library-based research as well as analysis of companies' annual report. It is very crucial to gather data from existing sources of data and information such as statutes, laws, regulations, government legal documents, registered journal articles, workshop and seminar proceedings, textbooks, newspapers, companies' annual reports and other relevant

³²⁴ Ibrahim, J. "Teori Dan Metode Penelitian Hukum Normatif", ed. setiyono Wahyudi, 2 ed. Surabaya: Bayumedia Publishing, (2006).

³²⁵ Jacobstein, J. M., Mersky, R. M., & Dunn, D. J. "Fundamentals of legal research." . Foundation Press, (1994).

³²⁶ Creswell, J. W., & Miller, D. L. "Determining validity in qualitative inquiry". *Theory into practice* 39, no. 3 (2000): 124-130.

documents to discover concepts, principles, guidelines, relevant statutes, legal opinion, facts and relevant provisions of disclosure responsibility in Malaysia.³²⁷

A historical research or historiography “attempts to systematically recapture the complex nuances, the people, meanings, events, and even ideas of the past that have influenced and shaped the present”.³²⁸ This approach was used to evaluate the application of corporate disclosure through MCCG principles as well as BMLR. It assisted the researcher to analyse several reasons for the principle of CG in Malaysian PLCs.³²⁹ It was intended to answer the first objectives of the study.

The analytical approach seeks to reduce a system to its elementary elements to study in detail and understand the types of interaction that exist between them. By modifying one variable at a time, the approach infers general laws that enable one to predict the properties of a system under very different conditions. To make this prediction possible, the laws of the additively of elementary properties must be invoked. This is the case in homogeneous systems, those composed of similar elements and having weak interactions among them. Here the laws of statistics readily apply, enabling one to understand the behaviour of the multitude disorganised complexity.³³⁰ In this study, the analytical approach was used to study and analyse the adoption of the principles of the MCCG, corporate disclosure policy, as well as BMLR and the overlapping and crosscutting laws and regulations. Relevant listed companies’ responsibility provisions of several statutes were analysed and

³²⁷Pinzari, S., &Spinei, I. “Corporate Governance: A Component of Transparency and Corruption Prevention”. *Transparency International Moldova*, (2004).

³²⁸Bell, Mr David, and Joanne Hollows, eds. “Historicizing lifestyle: Mediating taste, consumption and identity from the 1900s to 1970s”. *Ashgate Publishing*, Ltd. (2012).

³²⁹Becht, M., Bolton, P., & Roell, A. "Corporate governance and control". *Handbook of the Economics of Finance*, no. 1. (2003): 1-109.

³³⁰Meyer, Thierry, and Genserik Reniers. “Engineering risk management”. Walter de Gruyter, (2013).

criticised.³³¹ The legal instruments analysed included but not limited to the CA 2016, CMSA 2007 and the SCA 1993 as well as the policies and regulations of the adoption of disclosure policy of MCCG. It was intended to define the second objective of the study.

This research used data triangulation, often described as the use of multiple data-gathering techniques, to investigate the same phenomenon and mutually confirm measures and validation of finding.³³² However, multiple governance data investigate whether the adoption of good CG as well disclosure principles among listed companies in Malaysia. This study was unlike prior studies that focused on only one type of governance data such as the specific of CG principles or disclosure of the information or the corporate best practice of the listed companies in Malaysia to investigate whether the adoption of disclosure standards is beneficial to the companies and customers³³³.

This research employed the triangulated governance data as shown in Figure 3.2. The various data on governance adopted in this study is important because no researcher has yet applied all three data types in the same study and context.

³³¹ Akhtaruddin, M., Hossain, M. A., Hossain, M., & Yao, L. "Corporate governance and voluntary disclosure in corporate annual reports of Malaysian listed firms". *Journal of Applied Management Accounting Research* 7, no. 1, (2009): 1-19.

³³² Hopper, T., & Hoque, Z. "Triangulation approaches to accounting research". *Methodological Issues in Accounting Research: Theories and Methods*. (2006): 477-486.

³³³ Ghazali, Nazli A. Mohd, and Pauline Weetman. "Perpetuating traditional influences: Voluntary disclosure in Malaysia following the economic crisis." *Journal of International Accounting, Auditing and Taxation* 15, no. 2 (2006): 226-248.

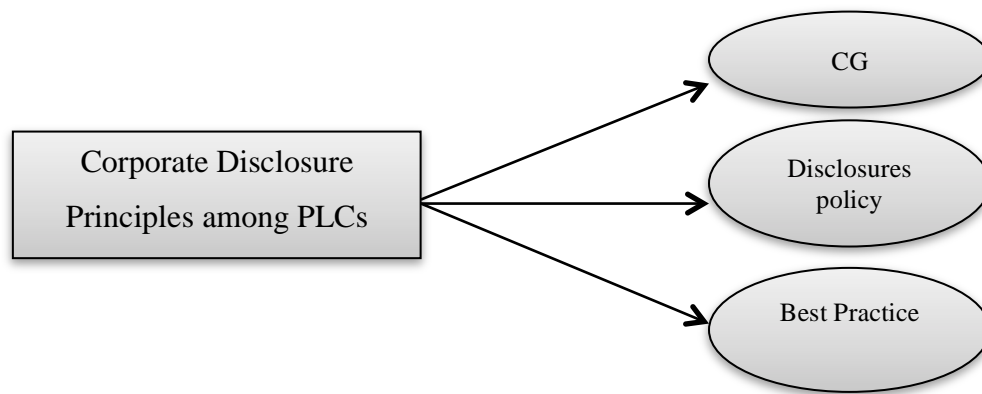


Figure 3.2: The applications of Corporate Disclosure

Figure 3.2 illustrates the corporate disclosure among PLCs. To achieve good CG, the study compared principle 5 “upholding integrity in financial reporting” and principle 7 “ensuring timely and high-quality disclosure information” of MCCG with chapter 9 of BMLR “continuing disclosure”. It also analysed companies’ annual reports to ensure full disclosure of the company’s information and best practices. Rules, regulations, annual reports and companies profile represent the most important sources of information for companies in Malaysia.³³⁴ Therefore, in this study, the annual reports of the PLCs were analysed to examine the application of CG and BMLR principles and best practice of disclosure policy.

3.4 Operational Definitions

This study used the following some terms:

Corporate governance: “The process and structure used to direct and manage the business and affairs of the company towards enhancing business prosperity and

³³⁴ Yatim, M. M.N. “Investors Perception on the Usefulness of Corporate Annual Reports Issues by Islamic Financial Institutions in Malaysia”. *Paper Presented at UNITEN Conference*. (2004).

corporate accountability with the ultimate objective of realising long-term shareholder value while taking into account the interests of other stakeholders”.³³⁵

Disclosure: “A whole array of different forms of information produced by companies, such as annual report which includes the director's statement, the operating and financial review, the profit and loss account, balance sheet, cash flow statement and other mandatory items. It also includes all forms of voluntary corporate communications, such as management forecasts, analysts' presentations, and the AGM, press releases, information placed on the corporate website and other corporate reports, such as stand-alone environmental or social reports”.³³⁶

Disclosure law: “The mandatory information that must be disclosed to the public according to the laws, acts and regulations. It refers to the minimum regulatory requirement set by the regulatory authorities (the Companies Act 2016³³⁷, Capital Market and Services Act 2007³³⁸). It should be adequate, full and fair in corporate annual reports for financial decision-making.”³³⁹

Disclosure principles: “Is relevant to materiality concept. It requires that all material information have to be disclosed in the financial statements either on the face of the financial statements or in the notes to the financial statements according to the MCCG.”³⁴⁰

³³⁵ HLFC, (1999). P1

³³⁶ Healy, P. M., & Palepu, K. G. (2001).

Solomon, Jill. Corporate governance and accountability. John Wiley & Sons, 2007.

³³⁷ See section 30 (2) and section 166(1) of CA 2016.

³³⁸ See section 151 of CMSA 2007.

³³⁹ Mondo Visione “Bursa Malaysia moves to boost disclosure and corporate governance framework”. (16/10/2015). Available at: <http://www.mondovisione.com/media-and-resources/news/bursa-malaysia-moves-to-boost-disclosure-and-corporate-governance-framework?disablemobileredirect=true>.

³⁴⁰ Ojah, Kalu, and Thabang Mokoaleli-Mokoteli. "Internet financial reporting, infrastructures and corporate governance: An international analysis." Review of Development Finance 2, no. 2 (2012): 69-83.

Disclosure requirements: “The necessary material information disclosed by listed companies to the public to make sure the public can make accurate investment decision. The requirements are also necessary so that companies take reasonable steps to ensure that all who invest in their securities enjoy equal access to such information according to the Bursa Malaysia Listing Requirements.”³⁴¹

Transparency: “The openness, a willingness by the company to provide clear information to shareholders and other stakeholders”³⁴².

Best practice: “Is a method or technique that has been generally accepted as superior to any alternatives because it produces results that are superior to those achieved by other means or because it has become a standard way of doing things, e.g., a standard way of complying with legal or ethical requirements which include the internal policies of corporations and the companies’ performance”³⁴³.

Corporate disclosure: “the communication of information by people inside the public firms towards people outside the main aim of corporate disclosure is “to communicate firm performance and governance to outside investors”³⁴⁴

Public listed companies: “Companies whose shares are traded on an official stock exchange. They must adhere to the listing requirements of that exchange, which may include how many shares are listed and the minimum earnings level”³⁴⁵.

³⁴¹ See section 2.03 of BMLR.

³⁴² Tricker, RI Bob, and Robert Ian Tricker. Corporate governance: Principles, policies, and practices. Oxford University Press, USA, 2015.

³⁴³ See: https://en.wikipedia.org/wiki/Best_practice.

³⁴⁴ (Haely and Palepu, 2001).

³⁴⁵ See: <http://lexicon.ft.com/Term?term=listed-company>.

3.5 Scope of Research

Sampling is the process of selecting a sufficient number of elements from a population so that a study of the sample and an understanding of its properties or characteristics would make it possible for us to generalise such properties or characteristics to the population elements.³⁴⁶ The main research interest is to the application of disclosure law, principles and requirements of CG among PLCs. Thus, the companies listed on BM were identified as the subject of interest. PLCs are chosen for a variety of advantages over non-listed companies. For example, the annual reports of PLCs are publicly available and they can be assessed from the BM's website.

In addition, the stringent requirements imposed by MCCG, BMLR, the CA2016 and CMSA2007 are to be followed in publishing the annual report, making the reports highly reliable. They are also presented in a uniform way. Notably, the use of information from PLCs enables a comparison to be made with studies in Malaysia and overseas as the data is reliable and uniformity is almost guaranteed.

However, in the present study, the population was PLCs in Malaysia. The BM site indicated 815 PLCs in all sectors. However, 31 companies in the technology sector and 42 companies in the construction sector were excluded because these two sectors have different structure and disclosure requirements in their annual reports. Thus, the actual population size of the companies considered was 742, of which 223 companies (i.e. representing 30%) were chosen as a sample to be analysed for a period of four

³⁴⁶Bhatti, Awais, and Hoe MA. "CH and Veera, PKS [2012], Data Analysis using SPSS and AMOS."

years from 2012 till 2015. Table 3.3 shows the sectors of the selected PLCs under the study.

Table 3.3

Sector Representation of Public-Listed Companies

Sectors	Total No. of PLCs on the BM	No. of Companies Indicated in the sample	Percentage
Closed-End funds	1	0	0%
Consumer Products	126	38	30%
Finance	34	10	29%
Hotels	4	1	25%
Industrial Products	234	70	30%
IPC	6	2	33%
Mining	1	0	0%
Plantations	42	13	31%
Properties	89	27	30%
REITS	16	5	31%
SPAC	3	1	33%
Trading / Services	186	56	30%
Total	742	223	30%

Table 3.3 shows the distribution of the population by various sectors and their respective percentage that resulted in the selection of 223 companies representing 30% of the population of the study. The selected companies came from different sectors, namely closed-end funds, consumer products, finance, hotels, industrial products, IPC, Mining, plantations, properties, REITS, SPAC, and trading/services. The main criteria used for sampling the companies were as follows: AR must be available from the BM website; the companies must have been listed between 2012-

2015; the inclusion of the CG statement, and the best practices of CG characteristics. The need for choosing the right sample for a study cannot be underestimated. A representative sample will be able to generalise the population's properties. In this case, probability random sampling was used to choose 223 companies from a total population of 742. In this technique, all companies in 12 sectors were identified and listed serially using the Excel software. Then, a random approach was employed by the computer resulting in the selection of specific companies at random.

This research obtained panel data which spanned for four continuous years starting from the year of 2012 until 2015. The choice of the period was determined by the unique characteristics associated with the time frame. A static panel was adopted, where data were collected from the same companies for four years in a row. Cavana, Delahaye and Sekaran (2001) favoured this kind of study as it can offer a sensitive measurement of the changes that could happen between points in time.

Data were collected starting from the year 2012 because this was the year the annual reports of listed companies in Malaysia were made available and complete from the BM's website. Also, the year 2012 witnessed significant amendments to the MCCG 2012. The year 2015 was chosen as the last year because it was is the latest financial year-ends for all companies with a ready and published annual report at the time of the data collection. As stated in the BMLR, PLCs have a few months after the financial year ends to publish their annual reports. While it might be better and more meaningful to cover the data from the year 1996 to make comparisons and perform analysis on the pre-Asian financial crisis, data availability was unfortunately insufficient. Moreover, further difficulties include the cost of accessing the annual

reports and the absence of a standard CG disclosure by companies before 2015. Thus, empirical comparisons cannot be drawn before that period. Despite the lack of conformity, to make meaningful justifications in the discussion of the changes in CG due to the Asian financial crisis 1998, companies' profile, board charter, BM announcements, etc. were important documents that had been used to support the arguments, justifications and findings in this study.

3.6 Types of Data

Three types of data were gathered as follows.

3.6.1 Primary Data

Primary data have been gathered throughout face-to-face interviews with the professionals in the regulatory organisations in Malaysia specifically from Companies Commission and SC, The interview with Companies Commission expert was done face to face³⁴⁷ while through email messages with the SC expert³⁴⁸. Moreover, cases related to corporate disclosure issues is primary legal data are published in general cases included in the judicial rulings, legal provisions, BM announcements related to companies' problems, and cases. Annotated codes are also an efficient and reliable way to find cases pertinent to specific statutory provisions. Several databases that focus on disclosure cases among listed companies specifically are also available. In addition, Statutes, laws and legislations on the application of disclosure principles were sourced from BMLR, MCCG, and other relevant acts such as CA 2016, CMSA 2007, and SCA 1993. Other sources included policies and

³⁴⁷ Aishah Bidin, Companies Commission of Malaysia, interview by author, UKM, Kajang, Selangor, Malaysia, October 21, (2016).

³⁴⁸ Kelly Kheng, Securities Commission of Malaysia, e-mail message to author, December 8, (2016).

guidelines of disclosure policy in other laws and regulations and. Primary data were used to justify secondary data.³⁴⁹ Primary data were necessary since the research goals were more than mere research problem identification. The study also sought to generalise the findings.

3.6.2 Secondary Data

Secondary data formed the main source of data in this study. They were collected from companies' annual reports, companies' profile, BM announcements Annual reports and companies profile of 223 selected PLCs for four years starting from 2012 till 2015 were analysed using content analysis. Moreover, the study uses magazines, books, unpublished papers, unpublished thesis, unpublished journal articles, newspapers, and journal articles.³⁵⁰ A major advantage of secondary data is that they are less time consuming to obtain and less costly.³⁵¹ Data are quickly accessible and of high quality.³⁵² Additionally, secondary data can be easily reviewed by others.³⁵³

3.6.3 Tertiary Data

Tertiary data are defined as "an index and textual consolidation of primary and secondary sources. Some tertiary sources are not to be used for academic research, unless they can also be used as secondary sources, or to find other sources".³⁵⁴ Tertiary data are indexes and abstracts, databases, handbooks, dictionaries and

³⁴⁹ Driscoll, D. L. "Introduction to Primary Research: Observations, Surveys, and Interviews". *Writing Spaces: Readings on Writing* 2. (2011): 153-74.

³⁵⁰ Lester, J. D., & Lester, J. D. "Writing research papers". Pearson/Longman, (1967).

³⁵¹ Ghauri, P. & Gronhaug, K. "Research Methods in Business Studies: A Practical Guide". (2nd ed.), Harlow *Financial Times, Prentice Hall*. (2002).

³⁵² Stewart, D.W. & Kamins, M.A. "Secondary Research: Information Sources and Methods" (2nd ed.), *Sage, Newbury Park*. (1993).

³⁵³ Denscombe, M. "The Good Research Guide". *Open University Press, Buckingham*. (1998).

³⁵⁴ Alderman, Jim. "Primary, Secondary, and Tertiary Sources." (2014).

encyclopaedias, Wikipedia and other similar sources³⁵⁵. In most cases, tertiary sources help identify primary and secondary sources for the researcher³⁵⁶.

3.7 Data Collection Methods

The following section discusses the method of data collection and the types of data collected for the study. The study evaluated the application of the disclosure law, principles and requirements of CG among PLCs in Malaysia. The data and information required for the study were collected from the BM's websites, annual reports, corporate profile, board charter of PLCs, in addition to an interview with two experts from the Companies Committee and SC. CG data, disclosure requirements and best practices were collected from primary, secondary and tertiary sources to meet the research objectives. The preference of data tools depends on the accessibility of services, costs, time, researcher experience, accuracy required, and other properties linked to the data collection.³⁵⁷

Primary data are the original data collected in sources, such as survey and interview data or experimental data, case laws, and statutes, while secondary data are existing data sets explanations, such as library data and annual reports. The qualitative interview involved open and closed questions adopted on the MCCG, BMLR principles and the UK code of best practices. Two participants from regulatory authorities were interviewed. While a face-to-face interview with an expert of Companies Commission was carried out, email messages were used to interview the SC. The interviewees were asked about their experience in the disclosure

³⁵⁵Smith, Alastair. "Information sources." *Libraries in the Twenty-First Century: Charting Directions in Information Services*. (2007): 107.

³⁵⁶ Ibid

³⁵⁷ Sekaran, U. "Research Methods for Business: A Skill Building Approach". John Wiley, New York. (2000).

requirements in the framework of their daily supervisory board activities, organisational and structural aspects, problems caused by the regulation, and in the framework of information quality. To ensure validity, the researcher solicited the opinions of two academics expert in securities.

Data on the law and policy of corporate disclosure, CG principles and best practices were collected from secondary sources. The data required for the study included disclosure law and policy to analyse the principles of MCCG, in particular, principle 5 "upholding integrity in financial reporting" and principle 7 "ensuring timely and high-quality disclosure". Also collected were data on disclosure policies of the capital market and service Act 2007, provision 10 of CMSA disclosure of information which consists of the power of the commission to require the production of books, offences, the power to specify form and manner of submission, privileges, disclosure to the commission, and disclosure of information relating to dealing in securities. The study also examined the disclosure provisions of CA2016 of sections 56, 221, 219 and 578 and the BMLR by concentrating on chapter 9 of continuing disclosure. Based on the law and policy of corporate disclosure, a thematic analysis was performed to classify the sub-topics.

This study used secondary data on the application of the CG principles and BMLR for four years starting from 2012 till 2015. The data were collected from 223 companies' annual reports using content analysis. Data on CG principles such as good CG, corrective action, implementation of effective corporate disclosure policies, compliance with the CG, accurate and timely disclosure, the board of directors' function, and disclosure of personal interest to the company were

collected. Data on the law of disclosure such as furnishing necessary information, disclosing the nature of the interest, information made by a professional adviser, directors offering notice in writing of shares, debentures, the disclosure of unfavourable material information, confidential matters, access to information, and ensuring security measures to protect information and documents were obtained. Moreover, data on BMLR such as compliance with the BMLR, the type of information disclosed to the public, directors and audit in accessing to the information, release of material information, disclosure of information made on a selective basis, information that could affect the share prices, immediate announcement to BM, and activities that mislead investors were gathered. Annual reports of 2012-2015 were available and downloadable from the BM website (<http://announcements.bursaMalaysia.com>).

Finally, the data on the best practices of disclosure policies such as Directors (board of directors, chairman and chief executive officer, board balance, supply of information, appointment of the board, board performance, disclosure of information in respect of directors and access to information and independent advice), Directors' Remuneration (remuneration procedure, the level of remuneration and disclosure of remuneration), Relation with Shareholders (annual general meetings, communication with shareholders, major and material transactions and declaration of interest), and Accountability and Audit (financial reporting, internal control, audit committee, code of ethics and CG disclosure) were collected. The data were obtained from annual reports, companies' profile, board charter, and internal policies of the PLCs from 2012 till 2015 using content analysis. The above sub-topics were adopted from the Australia code of best practices in 2005 and the UK CG code in 2014.

3.8 Analysis of Data

In light of recent corporate collapses, constitutional conflict, and the push for national uniformed regulation, the CG regulatory regime is in a state of flux. This unstable legal environment underscores the need for research that can inform legal debate on these issues.³⁵⁸ Potential issues include the impact of corporate disclosure and best practice of listed companies of BM and its applications. For this purpose, law research serves numerous objectives. The common and beneficial purposes are as follows: explanation, exploration as well as description. The analytical descriptive method allows the researcher to systematically and scientifically explain, define, examine, determine, and even provide conclusions from the point of problems, research questions, current situations, and several reasonable solutions. All data were used to strengthen each other to prevent misinterpretation of the data.³⁵⁹

The data obtained were analysed using three different approaches: content analysis, thematic analysis, and comparative analysis approach.³⁶⁰ The study applied content analysis approach to investigate corporate disclosure practices of the companies' annual reports. It is an accepted method of textual investigation, and "is potentially one of the most important research techniques in the social sciences".³⁶¹ Hence, it has been described as "a method of codifying and categorising the qualitative and quantitative information of a piece of writing into various groups or categories

³⁵⁸ Andreadakis, Stylianos. "Corporate governance in the aftermath of the scandals: the EU response and the role of ethics." *PhD diss. University of Leicester*, (2011).

³⁵⁹ Rustad, P., Felding, P., Lahti, A., & Petersen, P. H "Descriptive analytical data and consequences for calculation of common reference intervals in the Nordic Reference Interval Project 2000". *Scandinavian journal of clinical and laboratory investigation* 64, no. 4 (2004): 343-370.

³⁶⁰ Ramsay, J. O. "Functional data analysis". John Wiley & Sons, Inc., (2006).

³⁶¹ Krippendorff, K. "Content analysis: An introduction to its methodology". *second ed. London: SAGE Publications*. (2004).

depending on selected criteria”.³⁶² The purpose of the content analysis is to provide knowledge, new insights, and a representation of “facts”. The unobtrusive nature of the content analysis is that the researcher can evaluate documents without the cognisance of the preparer of the documents, making it well suited for investigating CG and disclosure practices in annual reports. Content analysis is empirically valid and although it has been less commonly used in the most conventional areas of accounting and legal research, it is the commonly used method of examining corporate disclosure in the annual reports.³⁶³ Content analysis is done by classifying the information disclosed into categories of items which capture aspects of the corporate disclosure.³⁶⁴ In this respect, content analysis is defined as “a research technique for making replicable and valid inferences from data according to their context”.³⁶⁵

The study also devoted to an explanation of thematic analysis. Thematic analysis is a method of researching and analysing qualitative data. In essence, the method requires the researcher to identify a limited number of themes that may lie submerged within data provided by, or originating from, a range of meaningfully comparable sources. It is often used and a relatively simple method of qualitative data analysis.³⁶⁶ An appropriate usage of thematic analysis enables a rich and detailed description of all the relevant data while still addressing any complexity that may be contained within

³⁶²WR. Weber, “Basic content analysis. Qualitative Applications in the Social Sciences”. Beverly Hills: CA, Sage, (1990).

³⁶³Hackston, D. and Milne, M.J. “Some Determinants of Social and Environmental Disclosures in New Zealand Companies”. *Accounting, Auditing and Accountability Journal*. Vol 9, No 1, pp. 77- 108. (1996).

³⁶⁴ Abu Baker, N., and K. Naser. “Empirical Evidence on Corporate Social Disclosure (CSD) Practices in Jordan”. *International Journal of Commerce and Management* 10, no. 3 &4(2000):18-34.

-Belal, A.R. “A Study of Corporate Social Disclosures in Bangladesh.” *Managerial Auditing Journal* 16, no. 5 (2001): 274-89.

³⁶⁵ Krippendorff, K. “Content Analysis: An Introduction to its Methodology”. London, Sage. (1980).

³⁶⁶ Cassell, Catherine, and Gillian Symon, eds. “Essential guide to qualitative methods in organizational research”. Sage, (2004).

it. For this reason, it is defined as “a method for identifying, analysing and reporting patterns within data”. Specifically, researchers explain a (pattern or) theme as capturing “something important about the data in relation to the research (question) and represents some level of patterned response or meaning within the data set”.³⁶⁷ Thus, the use of thematic analysis in this study helps explore, in depth, corporate disclosure and their influence on PLCs.³⁶⁸

Finally, comparative analysis approach is defined as “a set of logically based procedures for systematically testing against empirical evidence alternative (or competing) hypotheses about causal connections between phenomena, and thereby either corroborate or reject them”.³⁶⁹ The present study used this method to examine the applications of the CG principles and BMLR among PLCs by comparing principle 5, i.e., upholding integrity in financial reporting and principle 7, i.e., ensuring timely and high quality disclosure of information with chapter 9, i.e., continuing disclosure of BMLR in addition to partly comparing them with other statutes (CA 2016, SCA 1993 and CMSA 1997) to discover whether PLCs in Malaysia disclose a high level of material information to investors.³⁷⁰

³⁶⁷Braun, Virginia, and Victoria Clarke. "Using thematic analysis in psychology". *Qualitative research in psychology* 3, no. 2 (2006): 77-101.

³⁶⁸Bailey, B. C., & Peck, S. I. "Boardroom Strategic Decision-Making Style: Understanding the Antecedents". *Corporate Governance: An International Review* 21, no. 2 (2013): 131-146.

³⁶⁹Smelser, Neil J., and Robert Stephen Warner. "Sociological theory: Historical and formal". General Learning Press, (1976).

³⁷⁰Caramani, Daniele. "Introduction to the comparative method with Boolean algebra". Vol. 158. Sage publications, (2008).

CHAPTER FOUR

THE DISCLOSURE LAW AND POLICY OF CORPORATE GOVERNANCE APPLICABLE TO PUBLIC LISTED COMPANIES

4.1 Introduction

In recent years, both market regulators and academics have largely recognised the significance of disclosure, and this has culminated to the introduction of rules and regulations to ensure that companies disclose timely and reliably the required information.³⁷¹ In Malaysia, the economic recession in the last decade signifies the failure in CG. The 1997 financial crisis witnessed in Asian countries and the financial crisis of 2008-2009 highlighted the fault lines within CG. The growing influence of the shareholder value norm on corporate practice had exacerbated the asset price bubbles of the 1990s and 2000s and heightened the fragility of financial sector companies³⁷². The recent WorldCom, Enron, and Parmalat corporate scandals indicated the significance of good CG practices as a panacea for long-term survival of corporate entities. The transparency and accountability component of CG are pivotal in assisting companies to earn the trust of investors and shareholders,³⁷³ who must be assured that their companies would be run transparently and well.

³⁷¹ Durnev, Art, Vihang Errunza, and Alexander Molchanov. "Property rights protection, corporate transparency, and growth." *Journal of International Business Studies* 40, no. 9 (2009): 1533-1562.

³⁷² Deakin, Simon. "Corporate governance and financial crisis in the long run". *University of Cambridge, Centre for Business Research*, (2010).

³⁷³ Mohamad Mokhtar, Muhamad S, Z., Abdul Hamid, M, A., Zainal Abidin, Z., Mohd Nasir, A., Yaacob, A. S., and Mustafa, H., "Corporate Governance Practices and Firms Performance: The Malaysian Case Shabnam". *Journal of Money, Investment and Banking*, 11, 45-59 (2009)

Hence, CG, transparency and sufficient disclosure became the hallmarks that give shareholders reliable reassurances that the board will not engage in fraudulent activities.

This chapter focuses on four main regulations of MCCG, BMLR, CMSA, and CA, and other regulations that have considerable effects on corporate disclosure, as shown in Figure 4.1

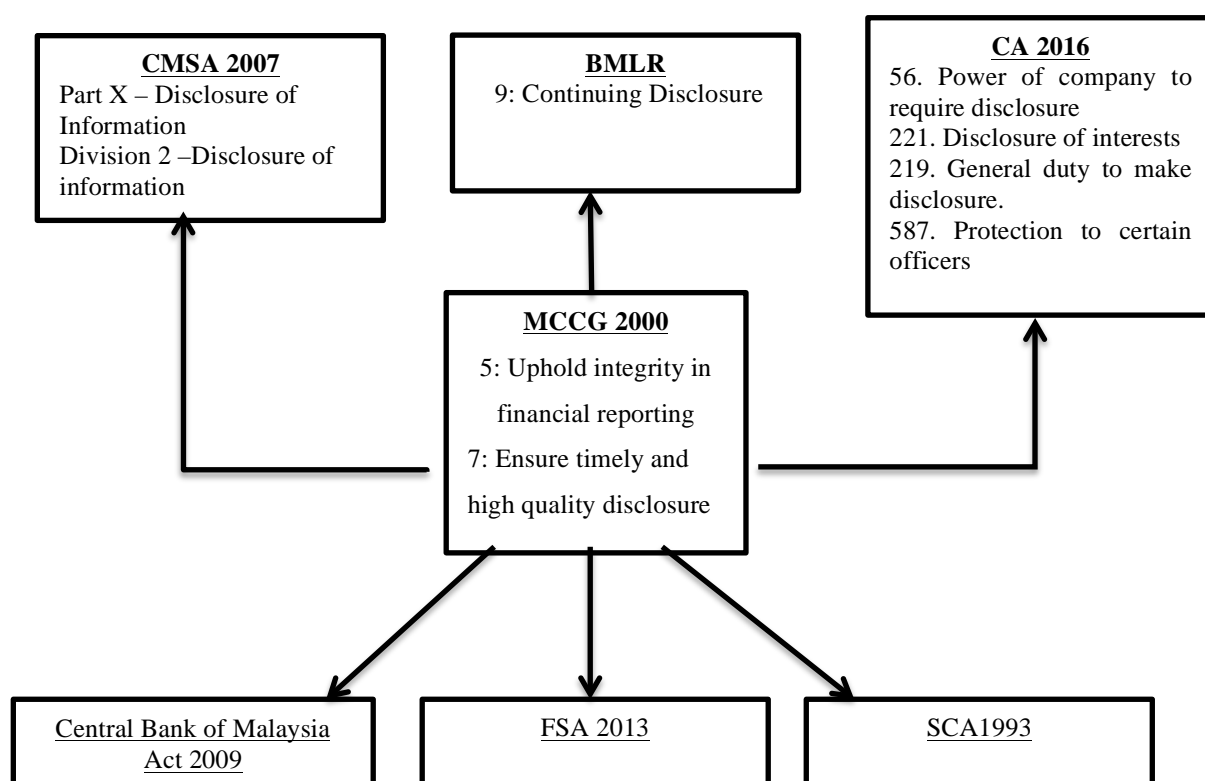


Figure 4.1: The Law and Policy of Corporate Disclosure

Figure 4.1 shows the law and policy of disclosure which applies to PLCs. The present research aimed at studying the eight principles of MCCG 2000 and concentrating on principle 5 "upholding integrity in financial reporting" and principle 7 "ensuring timely and high-quality disclosure of information". The study also

focused on "continuing disclosure requirements" as contained in chapter 9 of BMLR which applies to the MCCG principles. It also concentrated on part 10 of CMSA 2007 "disclosure of information", and how this part applies to the disclosure principles of the MCCG. Finally, the study took into consideration the disclosure of information in sections 56, 219, 221 and 587 of Companies Act 2016, and whether the disclosure of information on MCCG, BMLR and CMSA 2007 is in the same context with CA 2016. Figure 4.1 also takes into consideration other regulations such as Financial Services Act 2013, Securities Commission Act 1993 (SCA), and Central Bank of Malaysia Act 2009 with the purpose of enhancing and supporting CG through companies' operations and provide guidance to strengthen the disclosure of information in addition to enhancing and supporting the study analysis.

4.2 The Principles of MCCG

The focus of this part is on the eight Principles listed in MCCG and their corresponding 26 recommendations to analyse the corporate disclosure principles and how they apply to PLCs. These Principles include establishing clear roles and responsibilities; strengthening composition; reinforcing independence; fostering commitment; upholding integrity in financial reporting; recognising and managing risks; ensuring timely and high-quality disclosure, and strengthening the relationship between company and shareholders. The principles are shown in Table 4.2.

Table 4.2

The Principle of MCCG

ITEM	THE MCCG PRINCIPLES
Principle 1	Establish clear roles and responsibilities
Principle 2	Strengthen composition
Principle 3	Reinforce independence
Principle 4	Foster commitment
Principle 5	Uphold integrity in financial reporting
Principle 6	Recognise and manage risks
Principle 7	Ensure timely and high quality disclosure
Principle 8	Strengthen relationship between company and shareholders

4.2.1 Establish Clear Roles and Responsibilities

In compliance with MCCG 2012, recommendation 1.1 stipulates, “The board should establish clear functions reserved for the board and those delegated to management”. This stipulation points to the fact that the responsibilities of the board members are clearly divided with the purpose of ensuring a balance of power and authority. The positions of the managing director, chairman, and the chief executive officer are also held separately while their responsibilities and authorities are clearly established. In this view, the board must ensure that the fiduciary and leadership roles are clearly stated for the purpose of discharging those functions respectively³⁷⁴.

Further, the recommendation 1.2 sets out that “The board should establish clear roles and responsibilities in discharging its fiduciary and leadership functions” since it is the role of the board of directors to govern and set the company's strategic direction

³⁷⁴ TA Enterprise berhad. Annual Report. 2015. Available at: http://www.ta.com.my/taeb/pdf/corporate_governance.pdf

rather than managing it. In discharging its governance function, the board must act in the best interest of the company.³⁷⁵

Additionally, the MCCG indicates in recommendation 1.3 that “The board should formalise ethical standards through a code of conduct and ensure its compliance”. This therefore indicates that the key consideration for every board is the tone at the top. Likewise, it is also applicable to the values which every board member of the company holds. Most importantly, the code in its commentary also encourages the members of the board to formally adhere to ethical values as stipulated in the code of conduct and to equally ensure that the appropriate internal systems are implemented.

Furthermore, recommendation 1.5 of the code highlights that “The board should have procedures to allow its members access to information and advice”. In this regard, the directors have unrestricted and full access to all information with regards to the business affairs of the company, as this will help them in the performance of their duties. However, some matters are reserved specifically for the board’s decision with the purpose of ensuring that proper control and direction of the corporation is strictly in its hands.

Recommendation 1.6 of the code equally states that “the board is responsible for ensuring that its operations are supported by a competent and suitably qualified company secretary”. This is important as the secretary through the chairman plays an advisory role to the board on matters that concern governance, as this will ensure that

³⁷⁵ Kumpulan Wang Persaraan (KWPAS). “Corporate Governance: Principles and Voting Guidelines”. *Second edition, Kuala Lumpur. (2014). Available at: [http://www.kwap.gov.my/ EN/Aboutkwap/Corporate/Corporate Governance/Documents/ CGPVG _V2.pdf](http://www.kwap.gov.my/EN/Aboutkwap/Corporate/Corporate%20Governance/Documents/CGPVG_V2.pdf) .*

an effective system of CG is instituted. As part of its roles, the secretary also guides and advises the board on legal compliance.

Recommendation 1.4 indicates that the board should ensure that the company's strategies are channelled towards promoting environmental sustainability, governance and social matters, detailing all aspects that will ensure the perception of investor and public trust. Appendix 9C of the BMLR shows that each company is required to provide a description of the sustainability activities or practices undertaken and its subsidiaries or if there are none, a statement to that effect in their annual reports. Moreover, the Code specifies the access to the material information in relation to paragraph 15.04 of the BMLR which stipulates the right of the directors to the resources, whenever necessary and reasonable for the performance of his duties, at the cost of the listed company and in accordance with a procedure to be determined by the board.

Importantly, it can be inferred from the above that the board of directors is strictly responsible for the management, supervision, and appropriate representation as may be necessary for the purpose of ensuring that the company achieves its corporate objectives. Additionally, the board is accountable for the guard of the corporation's overall interests as well as creating value that will benefit all the shareholders and which will lead to the enhancement of the corporate disclosure among the companies and maintain investors' confidence between the company's and the public. Furthermore, this study found that the board of the companies had performed its duties and complied with the companies guidelines, where there is only 5% of the companies did not report the board performance.

4.2.2 Strengthen Composition.

The Code sets out in the recommendation 2.1 that “The board should establish a Nominating Committee which should comprise exclusively of nonexecutive directors, a majority of whom must be independent”. This requirement, in essence, indicates that to strengthen the board, transparent policies and procedure must be followed as this will help select board members that will help add values to the board deliberation. Importantly, the nominations and remuneration committee are made up exclusively of non-executive directors with a majority of them being independent directors.³⁷⁶

Recommendation 2.2 indicates that “The Nominating Committee should develop, maintain and review the criteria to be used in the recruitment process and annual assessment of directors”. In this regard, the board has the responsibility for delegating to the committee the responsibility for developing, maintaining and reviewing the criteria to be used in the process of recruitment and the directors’ annual assessment and which includes the assessment of how effective the board as a whole is as well as the performance of each director. Importantly, all the evaluations and assessments done by the nominating committee must be properly documented.³⁷⁷

The code also sets out in recommendation 2.3 that “The board should establish formal and transparent remuneration policies and procedures to attract and retain directors”, which implies that the board should establish a remuneration committee whose terms of reference include defining the scope of responsibilities and that the

³⁷⁶Latitude Tree Holdings Berhad. Annual Report, (2013). Available at: http://www.lattree.com/docs/Corporate_Governance.pdf

³⁷⁷Genting Malaysia Berhad (GENM). “Statement Corporate Governance” *Annual Report*. (2012). Available at: http://www.gentingmalaysia.com/annualreports/2012/GENM_ar2012_pg36_42.pdf

board must be effective in discharging its duties. Importantly, these terms of reference must be well understood by the committee as this would help clear the roles which the committee is required to play and what responsibilities to be delegated to it by the board. The board is required to deal with the directors' remuneration where the companies do not have a committee in place. It is equally important that the board should annually review and update the terms of reference³⁷⁸. Additionally, the committee should clearly outline the duties and responsibilities of the committee taking into consideration the structure, process and membership requirements as such information would assist the committee in preparing the agenda for the meeting.³⁷⁹

The MCCG above stipulates the rules and regulations which are to be followed while nominating committee members. In this regard, the BMLR also mandates in paragraph 15.08A (1) the condition to be met when nominating committee members, established by the board, to comprise exclusively of non-executive directors, a majority of whom must be independent. Also, the BMLR Appendix 9C equally provides the disclosure of remuneration policies and procedures by companies in the annual reports which applies to MCCG in recommendation 2.3.

It can, therefore, be seen from the above that even though the code specifies how committee members should be nominated, their duties and responsibilities should be assigned and what the process and structure should be followed, many of the listed issuers did not disclose the standards used in the assessment and the selection of directors. Previous studies discussed the relationship between company performance

³⁷⁸ Sallehuddin, Mohd Rashdan. "The Impact of Corporate Governance on Voluntary Disclosure among Public-Listed Companies in Malaysia." *E-Academia Journal* 5, No. 2 (2016).

³⁷⁹ Recommendation (2.3) of MCCG. (2012).

and board composition in the form of representation of outside independent directors. The studies indicated that independent directors from outside were of no economic value to the company.³⁸⁰ The result showed that the majority of companies under study declared the remuneration of their directors, and which signifies a high level of best practices by the companies.

4.2.3 Reinforce Independence.

MCCG in recommendation 3.1 states that “The board should undertake an assessment of its independent directors annually”. The thrust of this is that the board identifies the significance of objectivity and independence in the process of decision-making. Given this, the independent directors bring their respective knowledge to the board. The board is therefore committed to ensuring that the independent directors have the will and capacity to make vital decisions that will serve the company’s best interest and that of the shareholders without any undue influence from the management³⁸¹. Also, the commentary to the said recommendation places responsibilities on the board to disclose that it has executed such assessment in the annual report and in any other notice that is used to convey a general meeting for the re-election and re-appointment of independent directors.

Furthermore, MCCG 2012 in recommendation 3.2 equally sets out that

“The tenure of an independent director should not exceed a cumulative term of nine years. Upon completion of the nine years, an

³⁸⁰Rashid, Afzalur, Anura De Zoysa, Sudhir Lodh, and Kathy Rudkin. "Board composition and firm performance: Evidence from Bangladesh." *Australasian Accounting Business & Finance Journal* 4, no. 1 (2010): 76.

³⁸¹ DIGI.Com Berhad. "Statement on Corporate Governance". (2013). Available at: <http://digi.Listedcompany.com/misc/factsheet/Corp2013C.pdf>

independent director may continue to serve on the board subject to the director's re-designation as a non-independent director".

In exceptional cases, however and subject to consideration by the nomination committee, the board may use its discretion to recommend an independent director who has served the board consecutively or cumulatively for nine years to remain in office subject to the approval of the shareholders.³⁸² For this to be applied, recommendation 3.3 of the code recommends that the board should justify re-nomination while the approval of the stockholders should be sought.³⁸³

MCCG states clearly the demarcation of the responsibility between the managing director and the chairman as stipulated in recommendation 3.4. "The positions of chairman and CEO should be held by different individuals, and the chairman must be a non-executive member of the board" as this will ensure balance of power and authority. Importantly, the chairman is saddled with the responsibility for leading the board and smoothing its functions. He also works directly with the managing director to comprehend and oversee the implementation of strategies that will accomplish the company's objectives. Additionally, he is also responsible for ensuring that the board follows due and effective processes in the course of carrying out its duties and responsibilities which involve the timely provision of relevant and sufficient information on financial and nonfinancial issues. Moreover, the chairman, along with the managing director and company secretary, is responsible for setting agendas for

³⁸²Genting Malaysia Berhad (GENM). (2012).

³⁸³Malaysia, Bursa. "Corporate governance guide: Towards boardroom excellence". *Bursa Malaysia Berhad, Kuala Lumpur*. (2009).

the board meetings that are meant to focus on strategic direction and performance of the company.³⁸⁴

Based on the companies' annual reports, this study found that most sampled companies obtained shareholders' approval to retain the directors who had spent nine years in office. It is however noted that most listed issuers who sought the approval of the shareholders did not disclose clearly in their annual general meeting notice that the approval was sought for the directors that had exceeded the nine-year tenure.

It is of interest to note that MCCG stipulates several recommendations that will assist in improving the performance of companies. Importantly, this recommendation states that the chairman and CEO responsibilities should be obviously demarcated; as such positions should not be occupied by an individual whilst the chairman has to be a non-executive director. Then the board of directors should comprise a plurality of independent directors. Furthermore, it is very necessary that the board should seek the approval of shareholders to retain an independent director who has spent a cumulative term of nine years. This requirement therefore makes it obligatory for companies to disclose additional information that will give confidence to the shareholders and other public investors about the sovereignty of the director. The result indicated that the responsibilities of chairman and CEO were good fulfilled with by the excessive majority (about 80%) of companies in Malaysia.

³⁸⁴Malaysia, Bursa. (2009).

4.2.4 Foster Commitment

In line with Principle 4 of the MCCG, a recommendation 4.1 of MCCG stipulates that “The board should set out expectations on time commitment for its members and protocols for accepting new directorships”. Given this, the board is required to at least convene meeting quarterly while additional meetings may be convened when the situation warrants. Importantly, the board meetings are scheduled in advance for each financial year to permit the directors to allocate sufficient time for such meetings.³⁸⁵ Also, the commentary equally states that the directors must notify the chairman before they accept any new directorships. Importantly, such notifications should also contain information about the tenure of office for the new appointment. The directors may, however, choose to formalise the commitment time that will be spent in the new appointment, and this may be specified in the letter of appointment or director’s service contract before accepting the position in the company.³⁸⁶

Furthermore, the MCCG indicates in recommendation 4.2 that “The board should ensure its members have access to appropriate continuing education programmes”. This means that the board is responsible for determining and overseeing the training requirements of the directors and as well as encouraging the directors to attend seminars, courses, and other training that will help them enhance their knowledge, skills, and keep them informed about the relevant changes in regulations, laws, and business environment to enable them to discharge their duties effectively. The directors, in addition to the updates being provided by company secretary on

³⁸⁵ Recommendation, (4.1) of MCCG. (2012).

³⁸⁶ Malaysia, Bursa. "Corporate governance guide: Towards boardroom excellence". *Bursa Malaysia Berhad, Kuala Lumpur* (2009).

pertinent regulatory requirements and guidelines, must use their initiative to request for courses which are relevant to needs of the individual as a director or as members of a board committee on which they serve.³⁸⁷

While the principle above emphasises the time commitment which the director will use in discharging their responsibilities, Paragraph 15.09 of the BMLR places an obligation on the listed issuer to appoint an audit committee. Also, BMLR in paragraph 15.08 emphasises directors' training. By taking a glimpse from the annual reports of the sampled companies, it can be seen clearly the number of companies that comply with this commitment principle. Importantly, the analysis revealed that that the board at least met quarterly while almost all PLCs disclosed the training that the directors attended during the financial year.

From the above, it can be seen that the board of each company must provide good training for its directors and should also disclose the time of the meeting to enable the directors to allocate time for such meetings. It is, therefore, important that the board could accept more directorships on the condition that they can commit to their assigned tasks as this will improve the knowledge of the directors and members to disclose the important information that investors need to make their investment decision.

4.2.5 Uphold Integrity in Financial Reporting

In line with MCCG, principle 5 states that the board should ensure that the financial statements are a reliable source of information. Given this, recommendation 5.1 of

³⁸⁷United Plantations Berhad, (UP). "Corporate Governance". (2015). Available at: http://unitedplantations.com/Investor/Corporate_governance.asp

the Code states that “The Audit Committee should ensure financial statements comply with applicable financial reporting standards”. Importantly, this indicates that the board should recognise the value of an effective audit committee, as this will ensure that the financial statements of the company are a reliable source of financial information.

Essentially, the members of the audit committee should be those who clearly understand the language of accounting and finance while they equally ensure the integrity of the process of the company’s financial statements and reporting. It is essential that at least one member of the board must comply with the financial expertise requirements under the listing requirements.³⁸⁸ Nevertheless, the board is responsible for providing an impartial, understandable and comprehensive appraisal of the financial position and prospects of the company by ensuring that the quarterly announcements and the financial statements are prepared in line with the provisions of the CA 2016 and relevant approved accounting standards.³⁸⁹ It also ensures timely rendition of press releases and announcements of the quarterly financial statements, which signifies the commitment of the board to providing transparent and timely disclosures of the company’s performance. Importantly, the board is assisted by the risk and audit committee to oversee the financial reporting process and to also ensure the quality of the financial reporting by the company.³⁹⁰

Further, the general responsibilities of the director also include the ability to ensure that they are reasonably open to safeguarding the company’s assets and continuous

³⁸⁸Malaysia, Bursa. "Corporate governance guide: Towards boardroom excellence". *Bursa Malaysia Berhad, Kuala Lumpur*. (2009).

³⁸⁹Recommendation, (5.1) of MCCG. (2012).

³⁹⁰Nestlé (Malaysia) Berhad. “Corporate Governance & Financial Report”. (2012). Available at: https://www.nestle.com.my/asset-library/documents/pdf/about%20us/nestle_financial_report2012.pdf

implementation and operation of satisfactory internal and accounting control systems to prevent fraud and other irregularities. It is, therefore, essential that the board ensure that these obligations are met with the purpose of presenting a clear and balanced evaluation of the position and prospects of the company in the directors' report and the financial statements.³⁹¹ Additionally, it is the responsibility of the board to determine actual or potential conflict of interest on any issue, which may come to the board. In this regard, the board in its capacity via its audit and risk committee must, on a quarterly basis, review all the related party transactions. It is, however, important that any director who has an interest in any transaction must withdraw from any deliberation and subsequent voting on the relevant resolutions concerning the transaction at the board meetings.³⁹²

Furthermore, the recommendation 5.2 sets out that "The Audit Committee should have policies and procedures to assess the suitability and independence of external auditors". In this regard, an important responsibility of the board is to ensure that external auditor is independent. It is equally essential that the audit committee and the board should comprehend the relationship between the company and its independent auditor to make an assessment of the associated independence. This is essential as the external auditor independence is an essential CG issue for any company. It is equally important that the audit committee should on a yearly basis check the level of impartiality and independence of the external auditor by considering relevant regulatory requirements. Importantly, the audit committee should think of requesting information regarding the policies and processes being used to ensure the independence and monitoring of compliance with the relevant

³⁹¹ Nestlé (Malaysia) Berhad. (2012).

³⁹² Digi.Com Berhad. (2013).

requirements. These may include existing requirements on the rotation of audit partners, the level of fees that the company pays, and other related regulatory requirements.

Relatively to non-audit services rendered by the external auditors, commentary to recommendation 5.2 of the code also suggests that the audit committee has the responsibility for establishing and recommending to the board policies and procedures that will ensure that such services do not impair, or appear to impair, the objectivity or independence of the auditor. Importantly, the audit committee should review the approval purpose before any form of non-audit services engagement by the external auditor since the by-laws of the Malaysian institute of accountants forbid the external auditor of any listed issuer to provide internal audit services to the same company or its subsidiaries, amongst others. Thus, it is important that the audit committee engages the external auditors in the scope and nature of the audit and reporting responsibilities before the audit commences. Such a discussion will ensure that timely response is provided by the management on any query raised by the external auditors concerning the financial accounts, accounting records, or system of controls. Importantly, the board should empower the audit committee to review³⁹³ any matters that concern the appointment and re-appointment, resignations or dismissals of any external auditor and equally review and assess factors which relate to the autonomy of the external auditors.³⁹⁴

³⁹³ The review should focus primarily on any changes in existing accounting policies or implementation of new accounting policies, major judgment areas, significant and unusual events, Significant adjustments resulting from audit, the going concern assumptions, compliance with accounting standards and compliance with MMLR and other legal and statutory requirements.

³⁹⁴ Norwani, Mohamad and Chek, "Corporate Governance Failure and its Impact on Financial Reporting within Selected Companies ", *International Journal of Business and Social Science*. (2011). Vol.2 No.21

This study revealed that the MCCG suggests the audit committee is responsible for ensuring the autonomy of the external auditor as apparent in Paragraph 15.17 (f) of the BMLR which makes a provision that the audit committee has the responsibility for convening meetings with the internal auditors, external auditors, or both, while other employees and directors of the listed issuers are excluded from the meeting when deemed necessary.

Based on the results it can be noted that 98% of the companies indicated that their board established formal and transparent arrangements for considering how they should select and apply accounting policies, financial reporting and internal control principles. Based on the case of Wahid Ali who is one of the directors and shareholders of Aiwanna Manage Assets Sdn Bhd (Aiwana) is a former licensed asset management company. The case started between the period of 31 December 2001 until 11 March 2002, when one of Aiwanna's clients, Eastern Pacific Industrial Corporation Berhad (EPIC) had received three monthly Statement of Accounts from Aiwanna that were signed by Wahid Ali that gave an impression that EPIC's investment placed with Aiwanna was invested under the Aiwanna Bond Fund. The SC found that Wahid Ali had omitted to state a material fact, which is that the investment was instead placed with Asasi Trade & Marketing Sdn Bhd for the purpose of investment in the foreign exchange market. The offences are punishable under Section 88B SIA, which carries a penalty of a fine not less than RM1 million and imprisonment not more than 10 years. The High Court had in 2013 dismissed Wahid Ali's appeal. However in 2015, the Court of Appeal had remitted the case to the High Court for a re-hearing of the appeal. 27 May 2016, Judicial Commissioner

Dato' Nordin Hassan, confirmed the said conviction and sentence. The charges were preferred under Section 87A(c) of the Securities Industry Act 1983.³⁹⁵

Given the above, the following Paragraphs focus on the responsibilities of the audit committee via the MCCG. Toward this purpose, the concept of the audit committee, audit committee size, audit committee financial experience, audit committee meetings, and internal audit activities are discussed.

4.2.5.1 Audit Committee

The audit committee concept has existed for many decades even though no consensus was reached about its definition. For instance, Collier³⁹⁶ advocated that the audit committee is a subcommittee of the main board³⁹⁷ comprising the majority of non-executive directors³⁹⁸ while playing an important function of reviewing the financial reporting process and internal control and communicating with the auditors.³⁹⁹ In the U.S., Levitt pointed out that "...qualified, committed, independent, and tough-minded audit committees represent the most reliable guardians of the public interest".⁴⁰⁰

In recent years, the literature on audit committee has grown rapidly because CG has become a subject of concern by many stakeholders while emphasis has been laid on

³⁹⁵ securities commission Malaysia. (2016). Available at: https://www.sc.com.my/post_archive/court-confirms-convictions-and-jail-sentences-for-securities-fraud/

³⁹⁶ Collier, P. "Audit committees in smaller listed companies", in Keasey, K. and Wright, M. (eds), *Corporate Governance: Responsibilities, Risks and Remuneration*, Chichester: Wiley, pp.93-119(1997).

³⁹⁷ Cotter, Julie, and Mark Silvester. "Board and monitoring committee independence." *Abacus* 39, no. 2 (2003): 211-232.

³⁹⁸ Abbott, Lawrence J., Susan Parker, Gary F. Peters, and Kannan Raghunandan. "The association between audit committee characteristics and audit fees". *Auditing: A Journal of Practice & Theory* 22, no. 2 (2003): 17-32.

³⁹⁹ Walker, R. G. "Gaps in guidelines on audit committees." *Abacus* 40, no. 2 (2004): 157-192.

⁴⁰⁰ Carcello, Joseph V., and Terry L. Neal. "Audit committee composition and auditor reporting". *The Accounting Review* 75, no. 4 (2000): 453-467.

the roles of audit committee to ensure the quality of financial reporting.⁴⁰¹ In Malaysia, audit committee started in 1989 when all the financial institutions in Malaysia were advised by the Central Bank of Malaysia to set up audit committee. Subsequently, in 1991 the government created the platform that assisted in setting up of these committees in the listed companies with the purpose of strengthening the financial reporting and providing an early warning system. Since 1994, Section 15.08A of the BMLR mandated every company that intends to be listed on the exchange to form an audit committee comprising members who are autonomous of the company's management. Listed companies were given a grace period of twelve months to form an audit committee. This requirement was made compulsory with the purpose of improving the confidence of the investors and CG in the capital market.⁴⁰²

The recommendations of HLFC to establish MCCG were submitted in 1999. Importantly, the code places responsibilities on the boards to establish an audit committee which must comprise of at least three directors and of whom the majority must be independent while its chairman must be an independent non-executive director. To meet the new requirements of audit committee on its effectiveness, the code was recently revised to strengthen the function of audit committee by requiring the committee to comprise fully of non-executive directors.⁴⁰³

Additionally, it was made compulsory that all members of the committee must be able to read, analyse, and interpret financial statement so that they can perform their duties effectively. Consequently, for committee to effectively conduct their roles, the

⁴⁰¹ DeZoort, Hermanson, D., Archambeault, D., and Reed, S. "Audit committee effectiveness: a synthesis of empirical audit committee literature", *Journal of Accounting Literature*, Vol.21, pp.38-75. (2002).

⁴⁰² Sori, Zulkarnain Muhamad, S. M. Ramadili, and Y. Karbhari. "Audit committee and auditor independence: the bankers' perception". *International Journal of Economics and Management* 3, no. 2 (2009): 317-331.

⁴⁰³ Pascoe, Janine, and Shanthi Rachagan. "Key developments in corporate law reform in Malaysia." *Sing J. Legal Stud.* (2005):

requirements for listing companies on stock exchange were revised effective 1st June 2001.⁴⁰⁴ In this view, agency theory asserts that it is the responsibility of audit committee to monitor the activities of the board with the purpose of improving the information quality and enhance the quality of disclosure.⁴⁰⁵

4.2.5.2 Audit Committee Size

The MCCG and BMLR indicate that audit committee shall comprise of at least three members, the majority of whom are independent, should be non-executive, and must be financially literate, with at least one being a financial expert, i.e., a member of an accounting association or body and meet regularly with due notice of issues to be discussed. Also, the BMLR in paragraph 15.10 mandates that the chairman should be an independent director. The CG Guide of BM emphasises that, at a minimum, the audit committee should meet at least four times a year.⁴⁰⁶

The size of audit committee refers to the number of members which the committee has on the board. The significance of the size of the audit committee originates from resource dependence theory.⁴⁰⁷ Importantly, a sizeable board gives room to more diverse skills as knowledgeable members are employed by the committee to improve monitoring. Also, a larger audit committee indicates that superior resources and talents are available for the board and through which the financial reporting can be

⁴⁰⁴ Zulkarnain Muhamad Sori, Yusuf Karbhari. "Perceptions on Audit Committee and Auditor independence in Malaysia" *Universiti Putra Malaysia*. (2007).

⁴⁰⁵ Allegrini, M., Greco, G. "Corporate boards, audit committees and voluntary disclosure: evidence from Italian listed companies", *Journal of Management & Governance, forthcoming*, (2011). Available at: <http://www.springerlink.com/content/32720028107w4746/fulltext.pdf>

⁴⁰⁶ Mohamad-Nor, Mohamad Naimi, et al. "Corporate governance and audit report lag in Malaysia". *Asian academy of management journal of accounting and finance* 6, no. 2 (2010): 57-84.

⁴⁰⁷ Pearce, John A.; Zahra, Shaker A. "Board composition from a strategic contingency perspective". *Journal of management studies*, (1992), 29.4: 411-438.

overseen.⁴⁰⁸ Further, when the audit committee has a larger number of members, they are more likely to detect any likely issues that may be inherent in the disclosures of corporate reporting and get the issues resolved quickly.⁴⁰⁹ In respect of transparency and corporate disclosure, it has been argued that an audit committee with at least three members has the tendency of enhancing the degree of intellectual capital voluntary disclosure. A weak association, however, was found between the quality of financial information and committee size.⁴¹⁰

It was also found that audit member independence had an influence on corporate disclosures⁴¹¹. Furthermore, of CG characteristics, independent non-executive directors on audit committee were revealed to be more likely to increase the extent of corporate social responsibility disclosure in annual reports and the company's websites.⁴¹² Researchers have strongly argued that when members of the audit committee are independent, the level of voluntary disclosure will not only increase but will also reduce the negative association between the level of voluntary of disclosure and board ownership.⁴¹³ Similarly, it has been equally argued that the likelihood of voluntary disclosure will also increase with more independent directors on audit committee.⁴¹⁴ With multiple directorships, the members of the audit committee are encouraged to be more transparent in the course of making decisions

⁴⁰⁸Melendez, Jose L.; LIN, Tsen-Hwang; Williams, Byron. "High Q-large tuning range micro-electro mechanical system (MEMS) varactor for broadband applications". U.S. Patent No 6,635,919, (2003).

⁴⁰⁹Mohamad-Nor, Mohamad Naimi, et al. (2010).

⁴¹⁰Zhang, Yan, Jian Zhou, and Nan Zhou. "Audit committee quality, auditor independence, and internal control weaknesses". *Journal of accounting and public policy* 26, no. 3 (2007): 300-327.

⁴¹¹ Madi, Hisham Kamel, Zuaini Ishak, and Nor Aziah Abdul Manaf. "The impact of audit committee characteristics on corporate voluntary disclosure." *Procedia-Social and Behavioral Sciences* 164 (2014): 486-492.

⁴¹² Said, R., Zainuddin, Y. H., & Haron, H. "The relationship between corporate social responsibility disclosure and corporate governance characteristics in Malaysian public listed companies". *Social Responsibility Journal*, 5(2), 212-226, (2009).

⁴¹³ Akhtaruddin, M., & Haron, H. "Board ownership, audit committees' effectiveness, and corporate voluntary disclosures". *Asian Review of Accounting*, 18(3), 245-259.(2010).

⁴¹⁴Persons, O. S. "Audit committee characteristics and earlier voluntary ethics disclosure among fraud and no-fraud firms". *International Journal of Disclosure and Governance*, 6(4), 284-297. (2009).

since it is possible for them to make some comparisons given the knowledge they gain from other companies about the best practices.⁴¹⁵ Therefore, essential information on new policies, trade and practices among the companies is provided and this could possibly lead to improved performance.⁴¹⁶

4.2.5.3 Audit Committee Meetings

Employees and other directors are prohibited from attending audit committee meetings except with invitation. Importantly, this may serve as a form of regulation on their procedure with regards to the calls for meetings, notice given for such meetings; voting proceedings at such meetings; ways to keep the minutes of the meeting; and custody, production and inspection of such minutes. As a matter of rule, the majority of the members are independent of the quorum of the audit committee meeting.⁴¹⁷ It has been suggested that a meeting can commence with five members, even though this is not stated by the regulations. Such minimum number is required to have enough insight into the company's financial situation. Additionally, audit committee effectiveness will be enhanced as a result of frequent meetings since such meetings become the significant vehicles used by the directors to check the level of financial reporting, protect the interest of shareholders, and improve shareholders' value.⁴¹⁸

⁴¹⁵ Haniffa, R. M., & Cooke, T. "The impact of culture and governance on corporate social reporting". *Journal of Accounting and Public Policy*, 24(5), 391-430. (2005).

⁴¹⁶ Shepardson, M. L. "Audit committee member interlocks, managerial incentives, and financial reporting outcomes". *Working Paper, The University of Texas*. (2011).

⁴¹⁷ Haron, et al. (2005)

⁴¹⁸ Vafeas, N. "Board meeting frequency and firm performance". *Journal of financial Economics*, 53(1), 113-142. (1999).

Since audit committee serves as a watchdog of the process of financial reporting, it can as well guarantee the transparency of the corporate reporting by ensuring that a minimum of four meetings is held a year.⁴¹⁹ Thus, it is the responsibility of the audit committee to frequently meet for the purpose of ensuring that the financial reporting process is properly done.⁴²⁰ Importantly, such regular meetings would also help the members of the audit committee to be informed and know about the relevant issues concerning accounting and auditing.⁴²¹ Furthermore, the frequency of the meeting would permit the members to make a sound judgment concerning the company's accounting choice of Principles, disclosures and estimates.⁴²² In line with corporate disclosure also, it was demonstrated that such frequent meetings were significantly related to the degree of voluntary ethics disclosure.⁴²³ It was reported that as the rate of audit committee meetings increase, the auditor report lag decreases.⁴²⁴ Additionally, The result states in table 6.12 that the companies implemented a high level of CG practices and only 2% of the companies did not report issues relating to the meetings.

4.2.5.4 Internal Audit Activities

In Malaysia, responsibility is placed on the audit committees to prepare a summary of the principal functions and activities of internal audit. This summary includes all the activities of human resource, activities and audit of financial management and

⁴¹⁹ Méndez, C. F., & García, R. A. "The effects of ownership structure and board composition on the audit committee meeting frequency: Spanish evidence. Corporate Governance", *An International Review*, 15(5), 909-922. (2007).

⁴²⁰ McMullen, D. A., & Raghunandan, K. (1996).

⁴²¹ Abbott, et al. (2003)

⁴²² Allegrini, M., & Greco, G. "Determinants of board and audit committee meeting frequency: Evidence from Italian companies". *Managerial Auditing Journal*, 26(3), 208-229. (2011)

⁴²³ Persons (2009)

⁴²⁴ Abdullah, Mohamad, et al. "Financial restatements and corporate governance among Malaysian listed companies". *Managerial Auditing Journal*, 25(6), 526-552. (2010).

security controls. In the report, it is important to mention that the internal audit plan at the commencement of each year has been approved by the audit committee and that it receives regular reports from the group chief internal auditor on audit work and activities before the committee meetings. Furthermore, it is also important that the audit committee has satisfied itself that the both internal auditors and the external auditors have worked for the purpose of resolving issues that have been raised by the external auditors concerning the accounting and control issues of the company.⁴²⁵

Additionally, there are particular requirements which some listed companies must adhere to in order to validate their trading, such as “business of mining, plantation or timber” as it is required that an immediate announcement must be made to the BM about production figures for each month and must not be later than the end of the subsequent month. Also, it is a requirement that a closed-end fund must be announced immediately to the BM about the proposal regarding the change in its investment policies and objectives. Further, it is compulsory that the company’s management announces immediately to the BM about any form of change that has taken place in the control of the management or the trustee in the general feature or character of the trust and any intent to renew, vary or terminate the trust...etc.⁴²⁶

4.2.6 Recognise and Manage Risks

In line with MCCG, recommendation 6.1 stipulates that “The board should establish a sound framework to manage risks”. This clearly points to that fact the onus lies on the board to determine the risk tolerance level of a company, evaluate and monitor

⁴²⁵ Abdullah, Mohamad, et al. (2010).

⁴²⁶ Ibid

the risks, evaluate the company's internal controls and to periodically engage the management with the purpose of testing the sufficiency and effectiveness of the system and as well as disclose its features in the company's annual report.⁴²⁷ Therefore, it is the responsibility of the management to promote and apply the risk management policy. This role involves identification and assessment of business and operational risks, development and implementation of suitable risk mitigation strategies, monitor the effectiveness of risk controls and report the associated risk management capability and company performance.⁴²⁸

Further, recommendation 6.2 of the code states that "The board should establish an internal audit function which reports directly to the audit committee". It can be commented based on this that it is the responsibility of the audit committee to determine if an internal audit has been conducted in line with the standards that are set by the recognised professional institutes and whether risk management, internal control reviews, and appraisals of the effectiveness of the governance are regularly conducted. A commentary to recommendation 6.2 of the code also emphasises that the head of internal audit should possess the pertinent qualifications and be charged with the responsibility of giving assurance to the board that the internal controls are operating effectively.

The study demonstrated that despite the strong roles the external auditors are playing in an organization, the role of audit committee cannot be compromised towards the promotion of CG as this is in compliance with BMLR paragraph 15.12 (1)(e) which stipulates that the audit committee must review the competency of the internal audit

⁴²⁷Malaysia, Bursa. "Corporate governance guide: Towards boardroom excellence". *Bursa Malaysia Berhad, Kuala Lumpur*. (2009).

⁴²⁸ Ibid

function. Furthermore, the code specifies the audit committee activities through the audit of financial statements. The establishment and review of the internal controls and the improvement of the accounting policies adopted apply to section 246 of the CA 2016 and paragraph 15.26 (b) of BMLR. This fact is further corroborated by Paragraph 15.27 of the BMLR that states that a listed company must establish an autonomous internal audit function of the functions it audits and reports directly to the audit committee.

The results of previous studies revealed that the audit committee activities and integrity of financial statements were significantly related which helps to enhance the quality of CG and prevent corporate failure.⁴²⁹ The results of previous studies revealed that the audit committee activities and integrity of financial statements were significantly related which helps to enhance the quality of CG and prevent corporate failure. The findings indicate that PLCs reveal the key features of the internal control and risk management as well stated that there is a procedure in place for the purpose of assessing, regulating and managing risks. However, the process was not explained. In several occasions, evidence showed that these disclosures were not very informative or insightful. Disclosures should help investors to fully comprehend and interpret financial statements summary, as this will help them maintain the relationship between the shareholders and companies and help them make decisions.

4.2.7 Ensure Timely and High Quality Disclosure

In line with MCCG, principle 7 promulgates that companies should ensure high quality and timely disclosures are made. Given this, recommendation 7.1 stipulates

⁴²⁹Okpala, Kenneth Enoch. "Audit Committee and Integrity of Financial Statements: A Preventive Mechanism for Corporate Failure." *Australian Journal of Business and Management Research* 2, no. 8 (2012): 32.

that “The board should ensure the company has appropriate corporate disclosure policies and procedures”. Timely disclosure of material information is very crucial for building and sustaining the confidence of the investors and company creditability. The significance of timely and accurate disclosures of information for the shareholders to exercise their ownership rights point to the fact that the board has established a policy on company communication with the purpose of providing guidance and structure towards supplying corporate information to, and in dealing with, analysts, investors, media representatives, employees and the public; raising employee and management awareness of the disclosure requirements and practices; ensuring compliance with regulatory and legal requirements on disclosure; and guarding the brand equity of the company through effective management of the risks that are associated with the brand. In short, disclosures can avoid brand exposures that can undermine its ability to maintain its desired differentiation and competitive advantage.⁴³⁰

Further, recommendation 7.2 of the Code stipulates that “The board should encourage the company to leverage on information technology for effective dissemination of information”. By implication, this recommendation provides that a company should make use of information technology to supply information about the company as well as establishing a special Section for CG on its website. The board of directors also recognises the significance of communicating the strategies of the company as well as giving updates on the progress of the company’s current business initiatives and its financial performance during these briefings. All timely disclosure, material information, and announcements made to BM are published on the website

⁴³⁰ Okpala, Kenneth Enoch. (2012).

shortly after the same time they are released by the news wire service or the relevant authorities. Supplemental, non-material information will be posted on the website as soon as practicable after it is available.⁴³¹ Also, the company holds separate quarterly briefings for fund managers, institutional investors and investment analysts as well as the media after each quarter's announcement of results to BM. The quarterly briefings are intended not only to promote the dissemination of the financial results of the company to investors, shareholders and media but also to keep the investing public and other stakeholders updated on the progress and development of the company's business.⁴³²

Furthermore, the MCCG indicates that high-quality and timely disclosures are made to ensure comprehensive and accurate information. This is relevant to Paragraph 9.21 of BMLR which specifies that companies must have a website through which information required will be provided to stakeholders, potential investors, and other stakeholders for informed decision making. It is important to state that for effective supervision and financial reporting, greater transparency in disclosures is highly required. When an efficient financial transparency is adopted, companies will have the will to provide the required information for investors to monitor their governance process and behaviour. However, it is essential for the management to avoid unnecessary disclosures that could weaken competitiveness. Increasing transparency will be an important key for the future success of CG.⁴³³

Based on the above discussion, the adequate and timely disclosure of the information in an annual report is important to reveal a company's performance and to help the

⁴³¹ Nestlé (Malaysia) Berhad. (2012).

⁴³² Genting Malaysia Berhad (GENM). (2012).

⁴³³ Fung, Benjamin. "The demand and need for transparency and disclosure in corporate governance". *Universal Journal of Management* 2, no. 2 (2014): 72-80.

board perform its responsibility specifically towards the shareholders and other stakeholders in general. Importantly, it is not a requirement that the company should provide the detail and similar annual reports to the practice of listed companies. It is, however, important that all significant information should be revealed with the purpose of providing timely and useful information to the investors. Based on the results it can be concluded that the companies adopting appropriate disclosure policies, companies assure the information to regulators and shareholders, while only 3% of the total companies did not report timely and appropriate disclosure, refer to table 5.10

4.2.8 Strengthen Relationship Between Company and Shareholders

The recommendation 8.1 of the Code of CG states that “The board should take reasonable steps to encourage shareholder participation at general meetings”. In this view, the annual general meeting of a company remains an important forum in which shareholders can discuss and participate in the proceedings and ask questions concerning the resolution that is proposed and the operations of the group.⁴³⁴ In this regard, the steps may include serving notices of the meeting earlier than the minimum period of 21 days and reveal all pertinent information to shareholders and electronic voting adoption.

The recommendation 8.2 of the MCCG also stipulates that “The board should encourage poll voting and make an announcement of the detailed results showing votes cast for and against each resolution”. In this regard, it is the responsibility of the chairman to inform the shareholders about their rights to ask for a poll vote to

⁴³⁴Genting Malaysia Berhad (GENM). (2012).

pass resolutions in the general meeting. As defined by the board, substantive resolutions are to be determined through a poll voting while the result of the poll must be announced alongside the comprehensive results which show the number of votes cast for and against each resolution.⁴³⁵

Furthermore, the Code indicates in recommendation 8.3 that “The board should promote effective communication and proactive engagements with shareholders”. In essence, the company must be prepared to discuss social, economic, and environmental issues with all shareholders. The discussion with the shareholders is held during the annual general meeting. Importantly, high quality, on going communication and discussion with the shareholders assist in building trust and understanding between the shareholders and the company. Such effective communication makes the shareholders better appreciate the objectives of the company, the quality of its management and the challenges the company faces while at the same time allowing the company to be aware of the concerns and expectation of its shareholders.⁴³⁶

The recommendations of MCCG apply to BMLR which states in Paragraph 10.08(7A) that the voting by shareholders on a resolution at a general meeting approving a transaction must be taken by poll.

The analysis above stresses that listed companies should take a serious look at the strategic role of discourse between company leadership and shareholders. Where investors always demand an increase in communication with the company’s

⁴³⁵Malaysia, Bursa. "Corporate governance guide: Towards boardroom excellence". *Bursa Malaysia Berhad, Kuala Lumpur*, (2009).

⁴³⁶ Malaysia, Bursa. (2009)

leadership, it has been argued that a direct dialogue between the shareholders and the company can play a significant function in communicating the company's position concerning CG and executive compensation. Furthermore, when the shareholders are well engaged, valuable relationships can be built with the institutional investors that have the wherewithal to pay dividends in the future as shareholders' valuable assets are of tremendous importance to PLCs.⁴³⁷ Additionally, the results demonstrated that the companies under this study communicated greatly with shareholders to insure clarity of disclosure, refer to table 6.13.

4.2.9 Conclusion

The purpose of the study was to investigate the implementation of the MCCG by PLCs in Malaysia and the impact of the implementation on the performance of PLCs on BM. The above analysis shows that the recommendations and general principles of MCCG are voluntary as adoption depends on the willingness of the company. If companies decide to execute the recommendations, the companies can strengthen their governance, thereby creating a situation that can benefit the shareholders. Apart from profit, the code will at least push the board and other subcommittees to execute their duties efficiently. Therefore, it is important for companies to regard the recommendations as an opportunity to increase their CG rating. When a company is well rated, new investors are attracted while good impression and confidence are created by the shareholders. The adoption will help improve the overall performance and reduce fraud while the company's reputation is better enhanced. Also, the core

⁴³⁷ D.C. Barrall, Latham & Watkins LLP, "Building Relationships with Your Shareholders Through Effective Communication". (2012). Available at: <https://corpgov.law.harvard.edu/2012/11/13/building-relationships-with-your-shareholders-through-effective-communication/>.

values such as independence, transparency, integrity, fairness and accountability, and so on can be improved. Almost all the companies had widely adopted the principles of MCCG which is a code specifically designed to monitor the implementation of CG among PLCs in Malaysia.

4.3 Disclosure Policies of the Capital Market and Service Act 2007

On September 28, 2007, CMSA came to life, and this marked an important achievement in the SC continuous measures to improve business efficacy, strengthen the capital market regulatory framework, and increase investor protection. The CMSA is regarded as the main law that controls all the conducts that are prohibited in the derivatives and securities markets. Therefore, the CMSA covers different aspects of the market which include compensation and fidelity fund, capital markets services, prohibited conduct, market misconduct, security and offering issue, self-regulatory organizations, disclosure of information, provisions of applicable tolsted corporations, capital market development fund, administrative and civil actions, savings and transitional provisions and general provisions repeal.⁴³⁸ However, the focus of the study was on the disclosure of information provisions and how the provisions apply to the disclosure Principles of the MCCG, as depicted in Figure 4.3.

⁴³⁸Mohd-Sulaiman, Aiman Nariman. "Financial Misreporting and Securities Fraud-Public and Private Enforcement". *Australian Journal of Corporate Law*, *Forthcoming*. (2008).

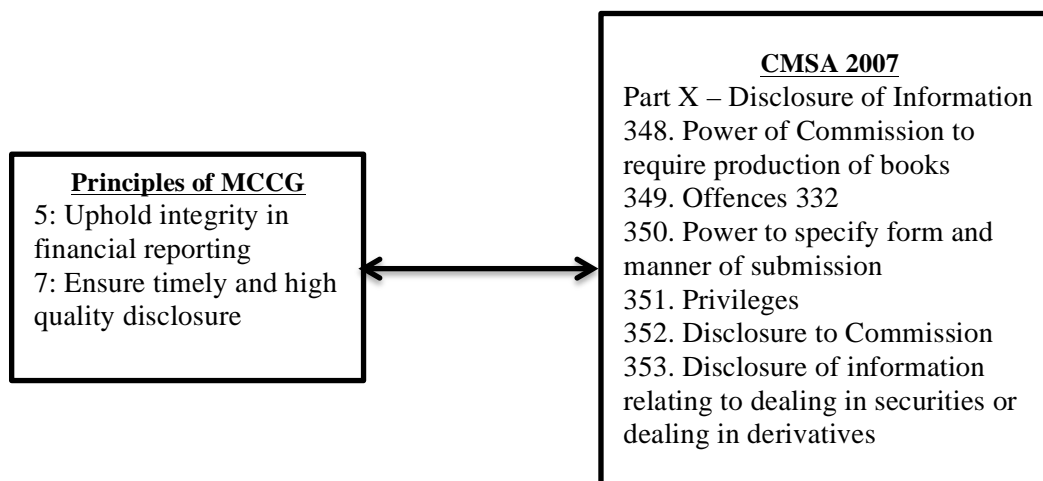


Figure 4.3: The applicability of the MCCG with the CMSA

Figure 4.3 shows the applicability of MCCG Principles on item five of the Principle on upholding the integrity of financial reporting and item seven on ensuring high quality and timely disclosure. Inclusive in the framework is Provision X of CMSA disclosure of information which consists of the power of the Commission to require the production of books, offences, the power to specify form and manner of submission, privileges, disclosure to the Commission, and disclosure of information relating to dealing in securities or dealing in derivatives. These provisions are stated in the CMSA in Part X, Section 394 to 353.

4.3.1 Power of Commission to Require Production of Books

In provision 348, CMSA states that the Commission is empowered to ask for the production of books through writing if enough reason is established. This can be done through a directive to the stock exchange or a derivatives exchange, exchange holding company, a board member of an exchange holding company; holder of a capital markets services license; or any other person who may be acting on behalf of

an exchange holding company, a stock exchange, a derivatives exchange.⁴³⁹ Nevertheless, the dealing in securities by a person as the trustee may require the production of any books if a person has a lien on the books and does not prejudice the lien. Importantly, the power to produce the book is extended if the person involved is a corporate entity or if it appears to be a magistrate upon written information on oath and after any enquiry he considers necessary, that there are reasonable cause to believe that there are books on particular premises must be collected, in addition to any other powers conferred by law.⁴⁴⁰

The CMSA above specifies the power of the SC to ask for the production of books, and this is also applicable with principle 7 of the MCCG (ensure timely and high-quality disclosure) that requires companies to make provision appropriately for corporate procedures and disclosure policies. This has further been confirmed by the SCA in section 2F that regulates the power of the commission to maintain the book as approved in section 14 (4) of the Central Bank of Malaysia Act 2009.

Given the analysis that is done above, it can be noted that the CMSA complies with the disclosure policies and procedures as indicated in the recommendations of the MCCG with special regard to Principle 7. Importantly, the application of such policies and procedures will help strengthen the regulatory and supervision power of the SC in Malaysian companies.

⁴³⁹ Mohd-Sulaiman, Aiman Nariman. (2008).

⁴⁴⁰ Part X (348). Capital Markets and Services Act, 2007.

4.3.2 Offences

For disclosure of information on offences, section 349 of CMSA specifies a person who contravenes a requirement made under the power of Commission in section 348 of the CMSA commits an offence and shall, on conviction, be liable to a fine not exceeding one million ringgit or to imprisonment for a term not exceeding ten years or to both, it also stipulates that a person who supplies information that is misleading or false, and/ or a person who hinders/obstructs the activities of the commission or another person in the exercise of any power has committed an offence on conviction and shall be liable to a fine that does not exceed one million ringgit or to an imprisonment for a term that does not exceed ten years or to both.⁴⁴¹

Based on the present analysis, it can be said that the CMSA sets out the offences related to the disclosure of false or misleading information by an individual or corporate entity. The MCCG indicates in the commentary of the recommendation 7.1 that the disclosure of all relevant information to shareholders is important to enable them to exercise their rights. The punishments also set out in section 121 of the CA 2016 stipulates that every officer that is discovered responsible of this crime according to this law shall be penalised a monetary fine or sent to imprisonment for five years or three million ringgit. Additionally, SCA regulates clear divisions relating to the offences of the corporations as stated in section 138.

Taking an insight from the above, it can be seen that section 139ZK of the CMSA 2007 partially complies with the recommendation 7.1 of the MCCG since the former indicates clear provisions of the offences that may be committed in respect of

⁴⁴¹ Part X (349). Capital Markets and Services Act, 2007.

disclosure information. Base on the case decided on 13 December 2013 between Mohamed Abdul Wahab and SC at the Court of Appeal. The case started in 2000 when Mohamed was a licensed fund manager and Executive Director of Metrowangsa Asset Management Sdn Bhd. The offences under section 122B(b)(cc) of the SIA were in relation to misleading statements provided to the SC regarding the amount of funds managed by Metrowangsa in 2000 and 2001. During the material time, Metrowangsa had in its reports made to the SC, excluded funds received from two of its clients, Lembaga Tabung Haji and Mimos Bhd, amounting to RM134.2 million for the year 2000 and RM231 million for the year 2001. Mohamed was charged in 2003 with two offences under section 122B(b)(cc) of the SIA for authorising the misleading statements to be made to the SC and one offence under section 47C(5) of the SIA for having abetted Metrowangsa in using RM50 million of Lembaga Tabung Haji's moneys to pay its other clients. On the charges under section 47C, he was convicted by the Sessions Court on 1 April 2009, together with Dr Ghazali Atan, the Managing Director of Metrowangsa and ordered to pay a fine of RM200, 000 (in default of one year imprisonment).⁴⁴²

4.3.3 Power to Specify form and Manner of Submission

CMSA concretizes the manner, and the necessary form information can be submitted. Also, it clarifies that any person should submit the information to the Commission through any form of information or documents within a limited period or, as it may deem appropriate. Nevertheless, it is emphasised in Section 350 of the CMSA 2007 that the information submitted should be through writing, visual and

⁴⁴² Securities commission Malaysia. (2013). Available at: https://www.sc.com.my/post_archive/former-fund-manager-fined-rm1-million-for-providing-misleading-disclosures-to-sc/

sound recordings or for any magnetic, electronic, mechanical or another recording whatsoever as stated in Section 350 of CMSA.⁴⁴³

Based on the above, the CMSA clearly states the methods through which companies must submit the information while MCCG indicates in Principle 5 (uphold integrity in financial reporting) the function which audit committee performs to ensure that the financial statements of the companies are a reliable source of information. Additionally, section 612 of CA 2016 states the responsibility which the companies must perform to supply information. Also, section 247 (5) stipulates the rule and power guiding supply of information on shares or debentures. Moreover, FSA sets out in part X the need for the company to be accurate when submitting their material information.

It can be noted from the analysis above that there is a high implementation between CMSA and BMLR regarding the submission and disclosure of material information to the public, either through an annual report as stated in Principle 7 of the MCCG or through the electronic, magnetic, mechanical and any other ways as stipulated in the CMSA. The provision of such information helps investors understand the performance of the companies and help them make their investment choices.

4.3.4 Privileges Communications

Section 351 of CMSA stipulates the privileged communications between the advocate and solicitor in respect of a book. Some privileged communications made by or on behalf of or to the advocate and solicitor in his capacity as an advocate and

⁴⁴³ Part X Section (350). Capital Markets and Services Act. 2007.

solicitor are contained in the book. In this respect, section 351(b) of the CMSA 2007 indicates that,

“the advocate and solicitor is entitled to refuse to comply with the requirement unless the person to whom or by or on behalf of whom the communication was made or, if the person is a body corporate that is under receivership or is in the course of being wound up, the receiver or the liquidator, as the case may be, agrees to the advocate and solicitor complying with the requirement, but the advocate and solicitor refuses to comply with the requirement, the advocate and solicitor shall forthwith furnish in writing to the Commission the name and address of the person to whom or by whom the communication was made.”⁴⁴⁴

The CMSA’s provision about privileged communications between the advocate and solicitor is in line with the CA provision which states clearly in section 177 (8) that the disclosure by an advocate of any privileged communication is necessary. This is equally applicable to the Principle 5 of the MCCG which requires that companies use information technology to effectively disseminate information and principle 8 of the MCCG which only stipulates the communications between the board and shareholders. This is confirmed by section 163 of the SCA and section 73 of the FSA which indicate the capability of the privilege and confidentiality.

In view of the above discussion, it can be noted that there is partial compliance with and implementation of CMSA and BMLR by companies and other parties, which make it complicated for investors to make an appropriate investment decision and

⁴⁴⁴ Section 351 (b) of Capital Market and Services Act, 2007.

develop some level of confidence and trust with the companies which subsequently affect the performance of the companies generally.

4.3.5 Disclosure to Securities Commission

With regards to the disclosure of information, the onus is on the SC to require an individual who has obtained or disposed of securities or futures contracts to disclose or reveal such to the SC, whether he occupies a position of trustee or on behalf of, another person whereas he should disclose to the SC the name of other person and the nature of any instructions given to the first-mentioned person in respect of the acquisition or disposal. Additionally, the SC may require the exchange to also disclose to the SC information relating to the purchase or disposal of securities containing the names of the participating companies who are involved in the purchase or disposal of securities. The companies are also required to disclose to the SC information relating to trading in a futures contract and the names of the affiliates who carried out the trading.⁴⁴⁵

The CMSA requires that members of a company disclose the information and any other relevant contract to the SC. Such requirement is also contained in Principle 7 of the MCCG that sets out the internal corporate disclosure policies and procedures with the purpose of ensuring detail, precise and timely disclosures. A similar provision is also set out also in 9.01(3, 4) of the BMLR. The SCA likewise confirms in section 152 the information required to be disclosed to the SC whether it is true or false. However, Central Bank of Malaysia Act 2009 indicates only the disclosure of interest in section 19.

⁴⁴⁵ Part X Section 352. Capital Markets and Services Act, 2007.

It can be concluded that listed companies are required to disclose information to the SC, which is in line with Principle 7 of the MCCG. The applicability will ensure companies to provide accurate and timely disclosures that will assist shareholders and the public to comprehend the condition of the companies and as well as to develop trust. Moreover, the results of this study stated great level of the companies reported disclosure of the interest in contracts while only 4% of the companies did not report disclosure of the interest in contracts.

Base on the case decided on 31 October 2010 between Silver Bird Group Bhd (Silver Bird) and Securities Commission. Where the SC charged two former directors of the company (Dato' Jackson Tan Han Kook and Derec Ching Siew Cheong) for furnishing false statements relating to the revenue of Silver Bird in 2010 and 2011, to BM. Were each charged with seven and eight counts respectively, of furnishing false statements relating to the revenue of Silver Bird in 2010 and 2011, to BM. The charges under section 369(b)(B) of the CMSA were made following SC's investigation in relation to false statements contained in Silver Bird's eight unaudited quarterly financial accounts for the financial years ended 31 October 2010 and 2011. Following the company's discovery of financial irregularities, Silver Bird announced in February 2012 that the company was deemed to be an affected listed issuer under Practice Note 17 of the Listing Requirements. Shortly after, the company removed both Tan and Ching from its board of directors. Tan and Ching were each granted bail of RM250, 000 with one surety each by Sessions Court Judge Tuan Murtazadi Amran and were required to surrender their passports to the Court. If convicted, Tan

and Ching will be liable to imprisonment for 10 years and a fine not exceeding RM3 million.⁴⁴⁶

4.3.6 Disclosure of Trading in Contracts

One of the duties of the Commission is that it may require an individual to disclose any information concerning securities or trading dealings in contracts that may be carried out on behalf of another person. Such information may include the name and any other particulars that may be enough to identify the person, the nature of the instructions given to that person with respect to securities dealings, and the trading in derivatives contracts or any other relevant information which may be possessed since the Commission may specify such to be expedient for the proper administration of the CMSA. However, the Act has clearly affirmed that any person who violates these requirements will be guilty of an offence and shall on conviction be liable to a fine of one million ringgit or to imprisonment for ten years or to both.⁴⁴⁷

While CMSA indicates the disclosure of information relating to dealing in securities or trading in contracts, MCCG mentions through the commentary of the recommendation 5.1 the responsibility of the audit committee to establish policies governing the contracts information. On the other hand, the BMLR gives in Paragraph 9.4 some examples that require immediate disclosure include contracts. Also, the CA indicates in section 219 clearly the disclosure of interests in contracts by directors, which is confirmed by Section 36 of Bank Negara Malaysia Act 2009.

⁴⁴⁶ Securities commission Malaysia. (2013). Available at: www.sc.com.my/post_archive/sc-charges-two-former-directors-of-silver-bird-group-berhad/

⁴⁴⁷ Part X (353). Capital Markets and Services Act, 2007.

It can be noted from the above analysis that the CMSA is in line with the MCCG in that both regulations are complementary to each other. The analysis also shows that other regulations such as the BMLR and CA also stipulate provisions relating to disclosing of information of trading in contracts, which will develop trust and help investors know more about the company they are going to invest in.

4.3.7 Conclusion

The present study revealed the significance of the CMSA in the development of CG and the capital markets as a whole. It also revealed that the CMSA in its capability had made various provisions of corporate disclosure information with the purpose of strengthening the capital market regulatory framework, improving the efficacy of business, and enhancing the protection of investors through the provision of accurate and sufficient information. The study showed that the main thrust of CMSA is to strengthen the capital market regulatory framework, improve business efficacy and enhance investor protection as well as improve and elucidate disclosure for companies to deliver information to their stakeholders. The CMSA provision also aligns with principle 7 of the MCCG that stipulates the necessity for companies to guarantee suitable disclosure policies and procedures. So, it can be concluded that MCCG is complementary with CMSA.

4.4 Disclosure Principle of Companies Act 2016

The Malaysian legislation on companies has always been vibrant and progressive. Importantly, the CA 2016 is the central act that was made for the purpose of governing and administering the formation of companies and their performance. This

part of the study however special sections of the Malaysian CA 2016 regarding disclosure, such as Section 56 that relates to the power of the company to require disclosure of beneficial interest in its voting shares; Section 221 which focuses on disclosure of interests in contracts, property, and offices; Section 219 which dwells on the general duty of making disclosure; and Section 587 that sheds light on the protection of certain officers who make disclosures. Also, this part discusses how these sections apply to MCCG, especially Principle 5 and 7, as shown in Figure 4.4.

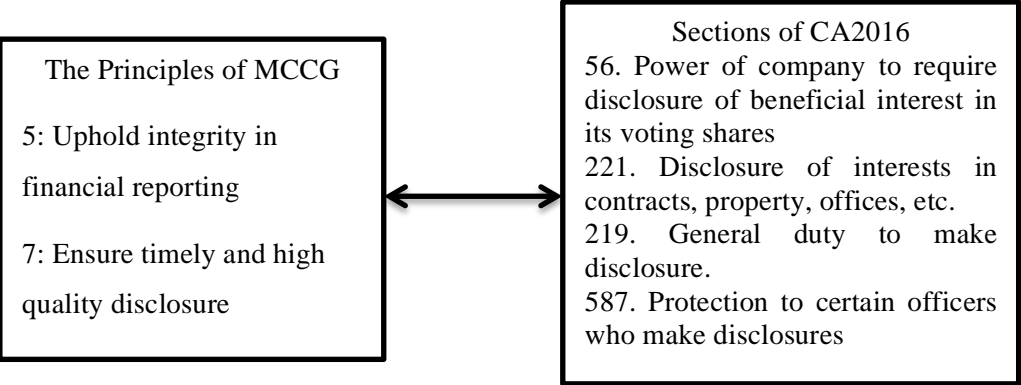


Figure 4.4: The applicability of the CA with the MCGG

Figure 4.4 shows how the disclosure principles of MCGG especially Principle 5 “Uphold integrity in financial reporting “ and principles 7 “Ensure timely and high quality disclosure” apply to the disclosure sections of CA 2016.

4.4.1 Power of the Company to Require Disclosure

The CA 2016 requires companies to disclose the beneficial interest in its voting shares by notice in writing as may be held by any member of the company in a reasonable time. Section 56 (1) stipulates that,

“....the company within such reasonable time as is specified in the notice to inform the company whether the member holds any voting shares in the company as beneficial owner or as trustee; and if he holds them as trustee, to indicate so far as he can the persons for whom he holds them by name and by other particulars sufficient to enable those persons to be identified and the nature of their interest”

Any company that is required to disclose information must as a matter of obligation keep a register of the names of its major shareholders and information included in the related notices sent to the major shareholders. Importantly, it is also required that the register must be kept at the principal place of business or registered office and the register must be open for inspection by any person. Companies whose shares are listed on BM may by notice require any of their members to inform the company. Such declaration must be made within a very reasonable time as specified in the notice, whether he holds any voting shares in the company as beneficial owner or as trustee.⁴⁴⁸

Importantly, if the voting shares are held as a trustee by the member, the company may require the individual to indicate how long he has been holding the share and to declare the nature of his interest equally. Having declared such interest, the person may then be served a notice by the company requiring him to state the nature of interest either as a beneficial owner or as trustee. If he is a trustee, the company may additionally ask him to specify, to his limited ability, the person for whom such a share is being held for. Also, he may also be required in writing to inform the company within a limited and reasonable time, whether any of the voting rights

⁴⁴⁸International Monetary Fund “Publication of Financial Sector Assessment Program Documentation—Detailed Assessment of Implementation of IOSCO Objectives and Principles of Securities Regulation”. *International Monetary Fund*, (2013)

carried by any voting shares in the company held by him are the subject of an agreement or arrangement under rights. If such an arrangement and agreement exists, the company may then require the particulars of the arrangement or agreement and the parties to it. The Act also requires that any member of the company must disclose if any of the voting rights being held carries any voting shares in the company are subject to an arrangement or agreement under which another person is entitled to control his exercise of those rights and, if so, to give particulars of the agreement or arrangement and the parties to it.⁴⁴⁹

Therefore, the company collects information from an individual as a requirement in respect of shares being held by a member of the company. Importantly, the company has an obligation to inscribe against the name of the member holding the share; stating why it is imposed, the date on which imposition was done; and any other requirement from the CA. Any person who contravenes these requirements shall be guilty of an offence against this Act and shall be punished with imprisonment for two years or one million ringgit. However, if the person establishes that the concerned question was already in the custody of the company, he will not be guilty of an offence. Importantly, however, if the company fails to comply with the BM or SC direction, the company and its officers who default shall be found wanting and shall be punished by a fine of One Million.⁴⁵⁰

While section 56 of CA 2016 states that the members of the company must inform it in reasonable time whether he hold any voting shares in the company MCCG states in the commentary of the recommendation 8.1 that “the company must disclose

⁴⁴⁹Section 56, Companies Act, 2016.

⁴⁵⁰ Ibid

relevant information to shareholders for them to exercise their rights as well as indicates the adoption of the electronic voting by the company's board". While CA indicates offences for the member who fails to comply with the above and must be punished with imprisonment for two years or one million ringgit MCCG does not indicate any offences in its recommendations, which is regulated under section 134 of the Financial Services Act 2013.

It can be noted from the above that the CA provision relating to disclosure by the members' shares applies to principle 8 of the MCCG which indicates that companies disclose material information to strengthen the relationship between the company and shareholders.

4.4.2 Disclosure of Interests

The audit committee discussed in the disclosure of directors' interests in contracts, property, offices, etc. in line with section 221 (1) of the CA 2016 stipulates that "Every director of a company who is in any way, whether directly or indirectly, interested in a contract or proposed contract with the company shall...declare the nature of his interest at a meeting of the directors of the company". This in essence indicates that the directors of the company must state the nature and the degree of their interests to the other directors. This pronouncement can be made during a meeting or in writing or by a general notice. For a proposed contract, however, the director shall make the declaration at the meeting where the question of entering into the contract is first taken into consideration, or, by notice in writing or by general notice. However, if the director is aware that the conflict of interests will not materialise or that the general declaration he made was inaccurate or not complete,

he must, therefore, make another declaration. On the other hand, if the director is not aware of the conflict of interest, no further declaration is required. Also, a declaration must be made even if it is obvious, and such declaration must be full and frank and cover the particular nature of the interest held.

Also, the CA 2016 states in section 221 (6) that

“Every director of a company who holds any office or possesses any property whereby whether directly or indirectly duties or interests might be created in conflict with his duties or interests as the director shall declare at a meeting of the directors of the company the fact and the nature, character and extent of the conflict”.

The declaration, in essence, shall be made at the first meeting with other directors held after being appointed as a director, or after occupying the office or after possessing the property, or as the case may require. Importantly, the secretary of the company is required to record every declaration made under this section in the minutes of the meeting at which it was made. When this requirement does not comply with a criminal offence has been committed and a penalty of imprisonment of five years or a fine of three million ringgit or both is enforced⁴⁵¹.

Furthermore, the CA specifies that the directors should declare their interest in an annual report of the company while the MCCG principle 1 (establish clear roles and responsibilities), especially in the commentary of the recommendation 1.4, specifies the board’s responsibilities with regards to environment, governance, and social aspects with the interests of the stakeholders. Also, principle 3 in its recommendation

⁴⁵¹ Section 221 (12) Companies Act 2016.

3.1 specifies the risks that may arise from the conflict of interest as indicated in paragraph 9.19(12e) in the appendix 9A of the BMLR, which is also confirmed and regulated in section 13 and 31G of the SCA and section 20 of Central Bank of Malaysia Act 2009.

Based on the analysis above it can be noted that the Malaysian CA requires that a corporation's directors announce the landscape of the interests they have in the general meeting of the company. Failure to declare such interest may affect the investors negatively since it may deter them from getting the required information when making an investment decision. Additionally, the study revealed how the CA provisions and the MCCG Principle 1 and Principle 3 that highlight the responsibilities of the board to balance the interest of the shareholders and the conflict of such interest are applicable.

4.4.3 Protection the Officers who Make Disclosures

The CA also makes reference to the officers who provide the disclosures. Section 587 in particular indicates that any company's officer, while performing his duties has reasonable belief of any matter which may or will constitute a breach or non-observance of any requirement or provision of this Act or its regulations, or has reason to believe that a serious offence involving fraud or dishonesty, may report the matter in writing to the registrar. Also, no officer of a company shall be liable to be sued in any court nor be subject to any tribunal process, including disciplinary action

for any report submitted by him as mentioned above in good faith and the intended performance of his duties as an officer of the company.⁴⁵²

Section 587 (2) explicitly protects such officer of the company from removal, demotion, discrimination or any interference with his lawful employment or livelihood by reason of the report submitted under subsection (1). Furthermore, no officer of a company shall be liable to be sued or be subject to any tribunal process, including disciplinary action for any report submitted by him in good faith and in the intended performance of his duties as an officer of the company.

Based on the discussion above, the CA indicates clearly the duties of the officers of the company to provide disclosures to the public. Such provision is similar to Principles 7 of MCCG (ensure timely and high-quality disclosure) in that companies should establish corporate disclosure policies and procedures to ensure comprehensive, accurate and timely disclosures. Such compliance with the disclosure requirements is set out in Paragraph 9.3 of BMLR which highlights the disclosure of material information. Moreover, Section 140 of SCA illustrates the protection of informers and information.

It is evident from the analysis above that the CA applies to the principles of MCCG which in that both indicate that companies should ensure comprehensive, accurate and timely disclosures of material information to the general public to develop and enhance trust and help them make their investment decisions.

⁴⁵² Section 587 (1), Companies Act, 2016.

4.4.4 Conclusion

The sustainability of the “Malaysian capital market” depends on the capability to uphold and increase the value of the market. Disclose information in a timely manner is crucial in order to build and support the integrity of corporate and investor confidence. Moreover, upholding trust in the “Malaysian capital market”, a strong disclosure system will additionally help attract the market.

The result also showed that the Acts provide a number of disclosure requirements that has to be fulfilled by an important shareholder of a company. That shareholder should also in writing, notify company of his or her interest. More so, where an important shareholder changes his/her interest⁴⁵³, the appropriate authorities should be notified in writing, with full details of the change, including the reason for which that change occurred. Where a person ceases to be a substantial shareholder in a company, he or she shall also notify the company and share a copy of the notice with the SC.

4.5 The Provisions of Bursa Malaysia Listing Requirements

The Bursa Malaysia is a self-regulated institution incorporated as a company limited by guarantee and has its memorandum and articles of association. The company was founded in 1976 for the purpose of administering and ensuring a set of rules concerning the securities dealing of its members. The BM has the responsibility for maintaining a proficient market, inspection and enforcement of the listing requirements that set out the criteria for companies seeking for a public flotation of

⁴⁵³ Section 51, Companies Act, 2016.

their shares and their continuing obligations. Essentially, the listing implies that securities/shares issued by a company can be purchased and sold by investors through a public organised listed market.⁴⁵⁴

Fundamentally, the BMLR has 16 chapters. The essence of these chapters is to set out the requirements which all applicants, management organisations, listed issuers, trustee-managers, trustees, their directors, advisers, officers and other individuals to whom these requirements are directed. Importantly, if any company fails to comply with any of these requirements, it will amount to a breach in respect of which actions may be taken or penalties may be imposed or both.⁴⁵⁵ Nevertheless, this study focused on “continuing disclosure requirements” as contained in Chapter 9 of the BMLR which applies to the MCCG principles as shown in Figure 4.5. Figure 4.5 consists of corporate disclosure policy, preparation of announcements, immediate and periodic disclosure requirements, as well as the disclosure requirements for specific listed issuers and circulars.

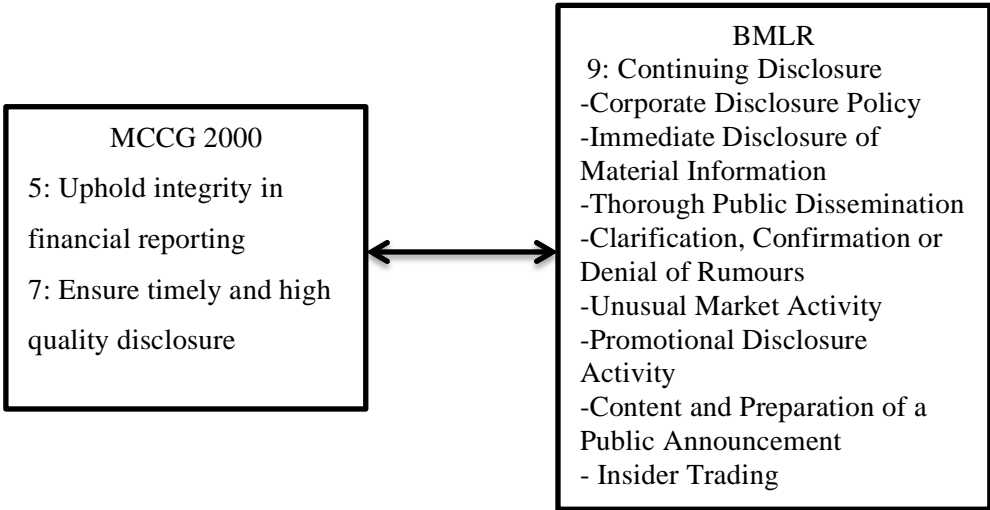


Figure 4.5: The applicability between the BMLR and MCCG.

⁴⁵⁴ Akhtar, Shamshad, ed. “Demutualization of stock exchanges: Problems, solutions, and case studies”. *Asian Development Bank*, (2002).

⁴⁵⁵ See Paragraph/Rule 2,02 of the LR.

Figure 4.5 shows the corporate disclosure applicability between Chapter 9 (continuing disclosure) of the BMLR with Principle 5 (upholding integrity in financial reporting) and 7 (ensuring timely and high-quality disclosure) of MCCG. Continuing disclosure is the requirements that the PLCs and its directors must comply with which include corporate disclosure policy of the exchange, preparation of announcements, immediate disclosure, periodic disclosure, circulars and other requirements.⁴⁵⁶

4.5.1 Corporate Disclosure Policy

BMLR states in Paragraph 9.02 that “A listed issuer...disclose to the public all material information necessary for informed investing and take reasonable steps to ensure that all who invest in its securities enjoy equal access to such information”. In essence, for fair, active and orderly market to be conducted, BM sees it as a necessity for every company that is listed to ensure that certain information is made available to the public domain for investors to make an informed decision. It is equally important for such information to be accurate, sufficient, and timely. Additionally, every listed company shall ensure that all investors have equal access to such information.⁴⁵⁷ So, a listed issuer must adhere to disclosure policies which state that companies must disclose material information, be thorough in disseminating such information to the public, clarify such information, ensure confirmation or denial of rumours or reports, response to unusual market activity, unwarranted promotional disclosure activity and insider trading. That is, BMLR requires that companies

⁴⁵⁶ Section 9.01, of BMLR.

⁴⁵⁷ Levmore, S. “Securities and secrets: insider trading and the law of contracts”. *Virginia Law Review*, (1982). 117-160.

disclose material information to the shareholders as well as the public for an informed investment decision. The requirement is also in line with Principle 7 of MCCG which highlights the establishment of corporate disclosure policies and procedures among companies with the purpose of ensuring detail, accurate, and timely disclosures. Such provision is confirmed by section 123 (2a) of FSA which highlights the clear standards of disclosure requirements.

Interestingly, it can be noted that the provisions of the corporate disclosure policy of BMLR are significantly applicable to principle 7 of MCCG that requires companies to have internal corporate disclosure policies and procedure. Moreover, the results show that the majority of the selected companies in this study reported corporate disclosure policies and only few companies (3%) did not report whether they implemented or not.

4.5.2 Immediate Disclosure of Material Information

Material information is defined as “any information which is reasonably expected to have a material effect on the price, value or market activity of the company or on the decision of a securities holder or investor in determining his choice of action”⁴⁵⁸. BMLR indicates in Paragraph 9.3 (1) that “A listed issuer must make immediate public disclosure of any material information”, which means that companies should make immediate disclosure based on the company's matters, conditions, and incidents in the company's securities. This information may have an important influence on the trading price of the company's securities which is regarded to be

⁴⁵⁸Kling, L. R., & Nugent, E. “Negotiated acquisitions of companies, subsidiaries and divisions”. *Law Journal Press*. (1992).

essential for the shareholders' and investors' interests.⁴⁵⁹ It is equally noted that some actions require immediate disclosure, for example, acquisition or loss of a significant commercial contract, entry into a merger or joint venture agreement, acquirement or loss of a significant commercial contract, or a significant change in management.

However, a company may not be required to disclose information to maintain confidentiality.⁴⁶⁰ Paragraph 9.05 of the LR states "A listed issuer may, in exceptional circumstances, temporarily refrain from publicly disclosing material information, provided that complete confidentiality is maintained". Accordingly, whenever important information is temporarily withheld, the company must maintain the strictest confidentiality and should be prepared to announce publicly immediately. During this period, the market action of the company's securities should be closely watched, since unusual market activity frequently signifies that a "leak" may have occurred.⁴⁶¹ It is also important that such information should be limited to the highest possible levels of management and to be disclosed to the employees, officers, and other stakeholders. Importantly, the information must be disclosed in a broad way, as the attention of the users must equally be drawn to the confidential nature of the information as well as the restrictions that are applicable to its usage, taking into consideration the prohibition of insider trading that may be required from each user who may have access to the information to report any transaction that can have any influence on the company's securities. It is therefore

⁴⁵⁹ MMC Corporation Bhd. (2014).

⁴⁶⁰ See Paragraph/Rule 9.04 of the LR.

⁴⁶¹ Cronin, J. J., Smith, J. S., Gleim, M. R., Ramirez, E., & Martinez, J. D. "Green marketing strategies: an examination of stakeholders and the opportunities they present". *Journal of the Academy of Marketing Science*, 39(1), (2011). 158-174.

recommended that every listed company must regularly remind its employees about its policies on confidentiality.⁴⁶²

Based on the previous discussion, it can be said that BMLR stipulates several rules for companies to make an immediate disclosure on the information that may have a significant effect on the price trading or which is considered important to the investors' and shareholders' interests. In this regard, Principle 7 of MCCG requires that every company must make appropriate corporate public disclosure while principles 5 highlights the method through which the audit committee must ensure high-quality financial reporting standards. Also, section 131 of CMAA states that the directors of the companies must disclose the nature of their interests immediately. These regulations are in place for the purpose of reducing information asymmetry to enable the public to have the information necessary to make informed decisions. Essentially, timely disclosures will help improve the efficiency of the market. It is equally significant to state that a policy on good disclosure requirements will also protect market integrity and promote investors' confidence, which is also regulated under section 152A of the SCA.

It can be noted that BMLR requires companies to make an appropriate disclosure to the public in that such disclosure should cover all necessary material information and to help investors make the right decisions and take practical steps to confirm that the entire investors in the enjoyment of equal access to such information. Also, BMLR requests that companies make periodic disclosures of its interim financial report, which complies with principle 5 of MCCG which indicates the function of the

⁴⁶² Ibid

audit committee is to disclose the companies' financial statements. Likewise, chapter 7 sets out the responsibilities of the companies for disclosing appropriate information to the public. Additionally, the results show that the majority (96%) of the selected companies admitted that they disclosed the announcements to BM and only 4% of the companies did not report the announcements to BM.

4.5.3 Thorough Public Dissemination

In line with paragraph 9.08 of BMLR, companies listed with BM must release material information to investors, shareholders, and other members of the public with the purpose of spreading information and obtaining the fullest public dissemination. Moreover, 9.08 (2) of BMLR highlights that "A listed issuer must ensure that no disclosure of material information is made on an individual or selective basis", which implies that such disclosure of material information must be made public. Should the material information be disclosed inadvertently in the course of meetings with shareholders, analysts, journalists or others, it must be promptly done as possible in the public domain.⁴⁶³ However, in certain situations, selective disclosure of material information is necessary, for instance, where the listed issuer is undertaking a corporate exercise or facilitating a due diligence exercise. In these situations, it is required that the disclosure is limited only to the relevant persons while a high level of confidentiality is maintained.⁴⁶⁴

Additionally, the BM requirements also stipulate in paragraph 9.8 (4) "Disclosures of material information can often be made after the market closes". It is important to

⁴⁶³Horgan, Anthony T. "Regulation FD Provides Firm Footing on Selective Disclosure High Wire". *Vill. L. Rev.* 46 (2001): 645.

⁴⁶⁴ See Paragraph/Rule 9.08(3) of the LR.

note that such disclosure must be made before or during trading hours, as it is the expectation of the BM that every company must notify such disclosure of non-regular matter or substantial impact securities. With the evidence that may be provided by companies, BM will be able to make an important decision concerning the need to temporarily stop trading or pending such announcement would be desirable. It gives an opportunity to disseminate and evaluate the information. In proper circumstances, it is possible for BM to provide an important service to companies and their investors by halting the arrangement.⁴⁶⁵ With respect to the timing of disclosure, the duty lies on BM to announce all material information publicly through electronic media or newspaper, and where there is complication in the composition of the information, it is expected that the company will hold a meeting with securities analysts and representatives of the news media in order to clarify issues.

Furthermore, BMLR stipulates among its provisions the need to disclose information as well to achieve fullest public dissemination. It also indicates that companies must disclose this information to BM after the market closes. These provisions are in line with principle 7 of MCCG which encourages companies to make use of information technology for effective dissemination of information. Such provision is also confirmed and represented by Central Bank of Malaysia Act 2009 in section 44(f).

From the above, it can be noted the disclosure of information by BMLR is in line with principle 7 of MCCG, as both require companies to issue information to the public to maintain their confidence and increase the level of their trust.

⁴⁶⁵ See Paragraph/Rule 9.08(4) of the LR.

4.5.4 Clarification, Confirmation or Denial of Rumours or Reports

Paragraph 9.09 (1) of BMLR stated that

“Whenever a listed issuer becomes aware of any rumour or report, true or false, that contains material information, the listed issuer must make due enquiry and immediately publicly clarify, confirm or deny the rumour or report”.

Significantly, it can be noted that any channels of public circulation either by a newspaper, article, and reports by brokers or through oral form which may be false or otherwise which the company has not verified is having the tendency and effect on the price of the company's securities must be clearly confirmed by the company.⁴⁶⁶ Additionally, if immediate disclosure is required under BMLR, the expectation is that a listed issuer must be pro-active and on its own make the suitable announcement without waiting for a query from BM.⁴⁶⁷

Additionally, paragraph 9.10 indicates that “Where the rumour or a report is circulated, the company has to make an announcement by denying the rumour through giving out the available fact to make the misleading information cleared to the stakeholders”.⁴⁶⁸ In essence, it has been clearly stated that in a situation where the company discovers that such information is correct, it should release the information. For example, where newspaper article is not correct, the copy of the newspapers should be sent to the financial editor.⁴⁶⁹ Moreover, the company should not equally respond to any case of rumours or report concerning future sales, earnings or other

⁴⁶⁶ See Paragraph/Rule 9.09(1,2) of the LR.

⁴⁶⁷ Bursa Malaysia Securities Berhad. (BMSB). "Corporate Disclosure Guide". 22 September. (2011).

⁴⁶⁸ Paragraph 9.10 (1) of the LR

⁴⁶⁹ Paragraph 9.6(3) of the LR

data. Additionally, the company should falsify or discredit such information as it comes from the wrong source.⁴⁷⁰

As required by BMLR, if a listed issuer is aware of any report or rumour, its shareholders, directors, and others who have familiarity with the matter should dissect whether the matter has some undisclosed information.⁴⁷¹ Therefore, if the issuer is required to make immediate disclosure under BMLR, it is expected that the listed issuer must be pro-active in doing so without being prompted by the BM.⁴⁷² Thus, it can be asserted that it is the company's policy not to respond to market rumours and speculation unless such rumour has some material information that will influence the price of the company's securities or trading activity. However, it is essential to state that if a report or rumour contains significant errors, the company must make immediate disclosure to the BM to deny or clarify the matter and provide enough information in line with the BMLR. The disclosure can be done verbally, and it is not limited to publication done in the media.

The above discussion indicates that BMLR requires companies to give an explanation and disclose immediately material information to BM if there is an irregular circumstance which happened in the company. The requirement is also in compliance with principle 5 of MCCG highlighted in recommendation 5.1 where the responsibility of the audit committee "is to ensure that the company's financial statements comply with applicable financial reporting standards as this is integral to the reliability of financial statements", because this will enable them to confirm that

⁴⁷⁰ Comintel Corporation Bhd. Available at: <http://markets.ft.com/research/Markets/Tearsheets/Business-profile?s=COMCORP> : KLS. (2015).

⁴⁷¹ Paragraph 9.09 of the LR

⁴⁷² KKB Engineering Berhad. (2012). "Circular to shareholders in relation to: proposed renewal of and new shareholder mandate for recurrent related party transactions of a revenue or trading nature". Available at: http://kkbeb.listedcompany.com/newsroom/KKB_130412_Circular_2012.pdf

true and fair financial statements have been prepared, which provide a correct account of the properties and financial situation of the corporation. Further, Principle 8 requires that companies disclose relevant information to shareholders for them to exercise their rights.

On the issue of clarification, confirmation or denial of reports, the results above indicated that BMLR requires companies to disclose all information that the public needed either as true or false which might influence the company's securities price. This is also in compliance with principle 5 of MCCG which highlights that “the function of the audit committee is to ensure that the companies’ financial statements are honestly prepared”. Also, principle 8 is in line with BMLR, which requires companies to disclose quality information to the general public to increase the trust and the relation between the companies, and it is shareholders.

4.5.5 Unusual Market Activity (UMA)

The listing requirements indicated in paragraph 9.11 that

“Where unusual price movement, trading activity, or both (unusual market activity) occurs, the listed issuer must immediately undertake a due enquiry to seek the cause of the unusual market activity in its securities”.

One of the signs that reveal undisclosed material information is apparent with price movement or unusual trading activity in a listed issuer’s securities. Consequently, the action of the market itself may mislead investors, who may assume that an unexpected and appreciable change in the company’s price of securities must reveal a parallel change in its business or prospects. Likewise, there is a tendency that

rumours that can give rise to extreme speculative trading can be encouraged by unusual trading volume even if such is not accompanied by an appreciable change in price and this may not be related to real developments in the affairs of the company. In these situations, BM will take the responsibility to issue a written UMA query to the affected issuer. In this respect, the company is responsible for undertaking an enquiry with the pertinent persons such as its directors, major shareholders, and other persons who may be familiar with the affairs of the issuer, to regulate the cause and issue a clarifying announcement as contained.⁴⁷³

In line with BMLR, Paragraph 9.11(2) stipulates that “...if the unusual market activity indicates that such information may have been misinterpreted, the listed issuer must issue a clarifying announcement to the exchange”. This provision, therefore, indicates that the listed issuer must ensure that the information or enquiry gathering process is done diligently while the announcement is made on an immediate basis. Significantly, the listed issuer should avoid formulating a standard statement in its clarification, such as “we have nothing to disclose” or “we are not aware of anything that may give rise to the unusual market activity”, just for expediency or convenience purposes without any due diligence. For example, where the reason for the UMA arises as a result of a proposal that the listed issuer is working on, this must be disclosed.⁴⁷⁴ Paragraph 9.11(5) stipulates that “if the listed issuer is unable to determine the cause of the unusual market activity, the listed issuer must announce that there have been no undisclosed developments which would account for the unusual market activity”. Based on this, it can be asserted that once there is an unusual movement in the price of security coupled with unusual

⁴⁷³ See Paragraph/Rule 9.11 (1,2) of the LR.

⁴⁷⁴ See Paragraph/Rule 9.11(3,4) of the LR.

trading activity in the shares of the company, it is very important that the company must undertake a due enquiry immediately with the purpose of seeking the cause of the UMA and making the announcement to BM.

In line with the above, BMLR indicates the responsibilities of the companies for disclosing all the information needed regarding an unusual trading activity or price movement to the general public. In this regard, the MCCG indicates in Principle 1 that one of the responsibilities of the board is to identify principal risks and ensure the implementation of appropriate internal controls and mitigation measures. Moreover, Principle 7 of MCCG states the ways companies need to provide material information such as the board charter, rights of shareholders, and the annual report. The methods are also stated in Section 148A (g) of the SCA.

Therefore, it can be concluded that the BMLR is in line with Principle 7 of MCCG regarding the information that should be disclosed to the public either this information is unusual trading activities or price movement. Such requirement will allow stockholders to build educated decisions and assist the market reflect the importance of a company. Moreover, the results of the study show that 89% of the companies disclose information that could affect the share price while 11% did not disclose any information that could affect the share price.

4.5.6 Promotional Disclosure Activity

BMLR in Paragraph 9.12 (1) indicated that;

“A listed issuer must refrain from promotional disclosure activity in any form whatsoever or however which may mislead investors or

cause unwarranted price movement and activity in a listed issuer's securities".

In essence, the listed issuer shall not engage in any promotional disclosure activity which will make the investors to be misled or bring about unwarranted price movement and trading activity in the company's securities. Significantly, such activity includes public pronouncements, news release, predictions, advertisement, or report which is unwarrantable, overstated, flamboyant, overstated or over-zealous.⁴⁷⁵

Moreover, paragraph 9.13 stated that "Although the distinction between legitimate public relations activities and such promotional disclosure activity is one that must necessarily be drawn from the facts of a particular case". In this regard, the following are recurrent seals of promotional activity:

"A series of public announcements unrelated in volume or frequency to the materiality of actual developments concerning the company, the announcement of products still in the development stage with unproven commercial prospects as well the promotions and expense-paid trips, or the seeking out of meetings or interviews with analysts and financial writers, which could have the effect of unduly influencing the market activity in the company's securities and are not justified in frequency or scope by the need to disseminate information about actual developments concerning, the press releases or other public announcements of a one-sided or unbalanced nature and the product advertisements which in effect promote the company's securities".⁴⁷⁶

⁴⁷⁵ See Paragraph/Rule 9.12 of the LR.

⁴⁷⁶ See paragraph/Rule 9.13 of the LR.

Based on the above discussion, the BMLR requires that companies make disclosure of any activities which can mislead investors or bring about unwarranted price movement. However, BMLR does not indicate any issue that relates to the information that may mislead the investors although Principle 7 of the MCCG specifically states the direct manner in which companies must ensure accurate, detail and timely disclosures. Furthermore, Section 349 (2) of the CMSA 2007 indicates an offence which may be committed by the person who furnishes false or misleading information to the public as equally clarified by the SCA in Section 152.

Given the analysis above, it can be concluded that companies shall not participate in every promotional detected activity that may cause the movement of prices or it may mislead investors is unjustified in the stock of the company. This kind of activity contains announcement, s a press release, public service, reports and forecasts. It also shows that BMLR demands from companies to disclose information that may mislead investors or cause unwarranted price. This requirement is in line with Principle 7 of MCCG that companies must disclose clear and accurate information to guide investors to be aware of this information and protect them from making wrong or misleading investment decisions. Additionally, the results show high level of disclosure of information that could help the investors to make informed decisions about unwarranted price movements in the companies securities, while only few companies did not disclose unwarranted price movements.

4.5.7 Content and Preparation of a Public Announcement

This part explains the preparation of companies to ensure that the information contained in the announcement is accurate, complete and whether it is expressed in a clear manner by using a simple language.

4.5.7.1 Principles of Disclosure in Announcements

According to Sasso, all listed issuers need to comprehend that the disclosure obligations must comply with BMLR. Essentially, this should not be interpreted in a restrictive and mechanical.⁴⁷⁷ Therefore, it is important for the issuer to make sure that the information it declares or circulated in pursuant to the BMLR is complete and accurate⁴⁷⁸ to avoid confusion in the market and will not undermine the principle of the orderly and fair market.⁴⁷⁹ Listed issuers should be aware that the essence of making a disclosure is not just for compliance or “box-ticking” exercise; rather, its essence is to ensure that investors have a proper comprehension of the information being disclosed⁴⁸⁰. However, experience has shown that there is every possibility for listed issuers to give very minimum disclosure as against comprehensive disclosure that is required for proper understanding. This is apparent in the disclosure of transactions. In this view, it should avoid the mind-set of “the lesser, the better”.⁴⁸¹

Thus, the minimum information is to be disclosed when a listed issuer or its subsidiary enters into a transaction. Essentially, the prescribed information is

⁴⁷⁷Sasso, Lorenzo. “Listing and Disclosure Rules in UK” Some Recent Changes (2008). *Contratto e impresa, Europe*, Vol. 2, 2008. Available at SSRN: <http://ssrn.com/abstract=1701923>

⁴⁷⁸Paragraph/Rule 9.16(1) of the LR

⁴⁷⁹Sasso, Lorenzo. (2008).

⁴⁸⁰Kho Pok Tong, Kho Poh Lin and Diwek Aku Dayus. "Corporate Disclosure Policy". (2014) Available at: <http://www.kkbeb.com.my/policies/CorporateDisclosure.pdf>

⁴⁸¹Sarra, Janis. "Disclosure as a public policy instrument in global capital markets". *Tex. Int'l LJ* 42 (2006): 875.

channelled toward those transactions that are common and not meant to be exhaustive. Additionally, it is also important for the issuer to assess whether the information declared is enough to assist investors in decision making. Such assessment is still important since the nature of the transaction that is involved may be distinctive and thereby require extra information to be disclosed.⁴⁸² In this respect, BM maintains that all listed issuers must appraise and determine whether the information they have disclosed permit investors to comprehend the implications of the transaction on the operations, strategy and financial condition of the issuer.⁴⁸³

4.5.7.2 Plain Language in Announcements

Another important principle of disclosure in circulars and announcements is that the listed issuer must express information clearly and in a reader-friendly format, using a simple and plain language for a simple understanding.⁴⁸⁴ However, experience has shown that circulars and announcements being prepared by issuers are becoming longer and more complex. This has therefore made it difficult for investors to understand the disclosures made.⁴⁸⁵ It is, therefore, essential for the issuer to properly understand and determine the type of information to be disclosed; as this will help the investors make an informed decision. This therefore implies that the company should avoid using a language that can trigger emotion and confusing, which indicates that the information disclosed must be accurate, and objective. This will help the investors to make a decision precisely.⁴⁸⁶

⁴⁸² See Paragraph/Rule 9.16 (2) of the LR

⁴⁸³ Bursa Malaysia Securities Berhad. (2011).

⁴⁸⁴ See Paragraph/Rule 9.16 (1) of the LR

⁴⁸⁵ Bursa Malaysia Securities Berhad. (2011).

⁴⁸⁶ See Paragraph/Rule 9.16 (1) of the LR

The discussion above shows that BMLR stipulates the different rules for companies to make a clear and complete announcement to BM so the public could have a good understanding of the information disclosed. It also indicates the usage of a simple language with the purpose of making the investors understood such information. However, MCCG does not stipulate clear rules to make such announcement although Principle 7 states that companies must ensure timely and high-quality disclosure.

The analysis above showed that BMLR requires from listed companies to make clear announcements of information to BM by a simple using way for investors to understand the information disclosed through this announcement. This is also applicable to Principle 7 of BM which requires that companies ensure the quality of information whether through announcements, annual report or other ways as this will help the public to understand such information and improve their knowledge about the companies' condition and where to invest their money.

4.5.7.3 Periodic Disclosure Requirements

Reliable and timely financial statements help boost the ability of market participants and investors to comprehend the companies' business, revenue, cash flows, and financial standing. Therefore, for the needs of the listed companies to be met, financial statements must, therefore, contain enough information to assist investors in their investment decision-making. Consequently, effective supervision of companies' financial reporting is germane in ensuring the authenticity of the financial information. It is, therefore, important for the listed issuer to have internal policies, procedures and systems that will help in the preparation of true and fair financial

statements promptly.⁴⁸⁷ Additionally, it is also important that members of the board have financial literacy and keep themselves updated about the recent developments in financial reporting requirements and regulatory changes.⁴⁸⁸ In this regard, Paragraph 9.23 (1) of BMLR indicates that

“A listed issuer must issue its annual report that includes annual audited financial statements together with the auditors’ and directors’ reports of the listed issuer, to the Exchange and shareholders within 4 months from the close of the financial year of the listed issuer”.

In this regard, the time frame prescribed must be adhered to, and this must be announced within two months after the expiration of each quarter. Also, annual financial statements must equally be announced within four months while annual report must be issued within six months from the close of the financial year.⁴⁸⁹

In line with other standards that are imposed on the other forms of on-going disclosures, it is important that the company ensure that the information disclosed is accurate, lucid, explicit, fair, complete and useful for investors to make appropriate decisions by adhering to the timeframes stated in BMLR. In essence, companies must announce immediately to the BM within three market days before issuing its quarterly report, annual audited financial statements, and annual report.⁴⁹⁰ This requirement is clearly specified in Paragraph 9.28 (3), which states that “...within the relevant timeframes, it must announce this to the exchange immediately or in any event, not later than three market days before the expiry of the relevant time frames”. On the other hand, it is important to state that when a listed issuer is issuing the

⁴⁸⁷ Bursa Malaysia Securities Berhad. (2011).

⁴⁸⁸ Ibid

⁴⁸⁹ See Paragraph/Rule 9.23(1) of the LR.

⁴⁹⁰ See Paragraph/Rule 9.28(3) of the LR.

exceptional financial statements an announcement should be made before or during the last market day, and failure to issue such statement within five market days after the expiration day will result in BM suspending trading in the securities. After six months of the expiry day, the company will be de-listed by BM.⁴⁹¹ Moreover, the company must also make an immediate announcement to BM the position of any memorandum of understanding which has been entered into by the listed issuer and a third party and which has been announced previously at least once every quarter or more regularly, upon the occurrence of a material change, whichever is the earlier.⁴⁹²

In this regard, BMLR indicates the period for companies to issue their annual reports and the companies must guarantee that the financial information disclosed is factual, clear, unambiguous, accurate, fair and complete. This, therefore, applies to Principle 5 which states that the function of the audit committee is to ensure that the company's financial statements comply with applicable financial reporting standards. This provision is also in line with Principle 7 which highlights the disclosure policies and procedures that guide companies to ensure comprehensive, accurate and timely disclosures. Also, Section 13 of Central Bank of Malaysia Act 2009 illustrates the preparation and publication of financial statements and report.

In sum, the above findings showed that BMLR on financial information is highly applicable to Principle 5 of MCCG, which sets out the duties of the board to make disclosure of information through the companies' financial statements. Also, Principle 7 supports the above arguments and shows the importance of the companies' board to establish clear procedures for disclosing such information.

⁴⁹¹ See Paragraph/Rule 9.28(5, 6) of the LR.

⁴⁹² See Paragraph/Rule 9.29 of the LR.

Moreover, the results show that the selected companies disclosing their information through the annual reports which consider as the main channel of communicating with its shareholders and as the first document that can give some guidelines to the investors to make their investment decisions, refer to table 5.30.

4.6 Insider Trading

Insider trading is defined as the purchase or sale of a company's securities affected by, or on behalf of a person with knowledge of relevant but non-public material information regarding the company according to BM, and it is in position to make massive gains by selling or buying securities before information that might affect the price of the company securities (price- sensitive information) is made public⁴⁹³. Behind the prohibition of insider trading, there is one main reason, which is the upholding of the principle of fairness⁴⁹⁴. If a corporate executive were allowed to use corporate information for personal gain, this would bring unfairness to the investors who are not insiders or those with no access to the information. Hence, if left unaddressed, insider trading can weaken the country's capital market confidence⁴⁹⁵.

Insider information in various countries is illegal. It seems unjust to other investors with no access to the information since the investor with insider information could potentially make larger profits compared to a typical investor⁴⁹⁶. Rules governing the flow of insider information are complex and vary widely from one country to

⁴⁹³ http://www.bursamalaysia.com/website/bm/bursa_basics/market_terminology/glossary.html (accessed 22 march 2018)

⁴⁹⁴ Chuang, Yung-Cheng. "A Critique of US Insider Trading Regulation Theory." *Chung-Yuan Law Review* (2001): 7-211.

⁴⁹⁵ Macey, Jonathan R. "Beyond the Personal Benefit Test: The Economics of Tipping by Insiders." *Brower Download This Paper* (2016).

⁴⁹⁶ Dent Jr, George W. "Why legalized insider trading would be a disaster." *Del. J. Corp. L.* 38 (2013): 247.

another, as well as the scope of application.⁴⁹⁷ As such, Malaysia has a concern of insider trading since decades ago as enacted in the legislation to regulate and control it. This is done through some statutes such as principles 9.14 - 9.15 of BMLR and sections 183 - 198 of CMSA 2007⁴⁹⁸.

Information plays a crucial role in the financial markets mechanisms in which its availability to all investors becomes important to ensure that it can maintain an up-to-date and proficient market. Hence, it is vital to differentiate between two types of information: 'public information' and non-public information called 'inside information'⁴⁹⁹. As a matter of fact, CMSA in section 183 enforces the type of material non-public information that must be kept confidential, which include matters of supposition and other matters that are insufficiently definite to warrant being made known to the public; matters relating to the intentions or to negotiations; information relating to the financial performance of a corporation and matters relating to the future, and many more.⁵⁰⁰ Section 184 of CMSA 2007 states that "...information is generally available if the information has been made known in a manner that would, or would tend to, bring it to the attention of reasonable persons who invest in securities of a kind whose price or value might be affected by the information, and since it was so made known, a reasonable period for it to be disseminated among, and assimilated by, such persons have elapsed..."⁵⁰¹

⁴⁹⁷ Clark, Stephen. "Insider trading and financial economics: Where do we go from here." *Stan. JL Bus. & Fin.* 16 (2010): 43.

⁴⁹⁸ Sukri, M. H. "insider trading from Malaysian law and Islamic law prospective" Azmi & Associates, (2008) available at: http://www.azmilaw.com/archives/Article_10_Insider_Trading-Islamic_Law_view_00102077_.pdf.

⁴⁹⁹ Albelooshi, Abdulsalam. "The Regulation of Insider Dealing: An Applied and Comparative Legal Study towards Reform in the UAE." (2008).

⁵⁰⁰ Section 183 of CMSA 2007

⁵⁰¹ Midway Gold "Insider Trading Policy". (2012). Available at: http://www.midwaygold.com/i/pdf/insider_trading.pdf (accessed (23 March 2018))

CMSA 2007 stated several civil prosecutions of insider trading offenders such as civil suit by persons affected by insider trading under the CMSA. In addition to prejudice to criminal punishment, insiders may face civil proceedings brought against them by persons suffering loss or damage due to, or reliance on, insider behaviour. As well, there were civil suits instituted by the SC under the CMSA⁵⁰². For example, in August 2004, the SC initiated civil enforcement action against Kuala Lumpur City Securities Sdn Bhd and Wan Azmi bin Wan Abdul Rahman, a former employee of Padiberas Nasional Berhad (Bernas), requiring them to disgorge ill-gotten profits arising from the insider trading of Bernas shares. This resulted in the recovery of RM2,080,000,00 from Kuala Lumpur City Securities Sdn Bhd, twice the amount gained by Kuala Lumpur City Securities Sdn Bhd from the insider trading of Bernas shares. Kuala Lumpur City Securities Sdn Bhd and Wan Azmi bin Wan Abdul Rahman were also required to pay civil penalties of RM300,000,00 and RM150,000,00⁵⁰³. Also, any civil suit against insiders by individuals affected by insider trading under any other law⁵⁰⁴. On the other hand, CMSA 2007 indicated that criminal proceedings could be initiated against insiders, and if convicted, a penalty of up to 10 years' imprisonment and a fine of not less than one million⁵⁰⁵. One of the criminal cases involving insider trading in Malaysia is the case of PP v Chua Seng Huat⁵⁰⁶.

⁵⁰² Section 201 (5) (6) of the CMSA 2007.

⁵⁰³ Securities Commission, (2006). Available at: https://www.sc.com.my/post_archive/90-aggrieved-bernas-investors-compensated-in-milestone-sc-civil-recovery-action-41-others-yet-to-claim-entitlement/. (24 March 2006)

⁵⁰⁴ Section 201 (11) of the CMSA 2007.

⁵⁰⁵ Section 188 (4) of the CMSA 2007.

⁵⁰⁶ [1999]3 MLJ 305.

The severe sentencing of a huge amount of monetary penalty and the mandatory imprisonment implies a serious fight against insider trading.⁵⁰⁷ The imposition of mandatory imprisonment is a credible effort in deterring criminal conduct, but its actual effectiveness hinges much on its implementation.⁵⁰⁸ Thus, the criminal sanction of mandatory imprisonment cannot be enforced without great obstacles.⁵⁰⁹ The prosecution is not always a viable route especially if there is difficulty in obtaining evidence, which more often than not is a challenge in the case of insider trading.⁵¹⁰ In short, insider trading can be harmful to Malaysia economic performance because potential investors could be reduced. If the government can bring investors' confidence in the security market, it is very important to understand the reasons that lead people to commit insider trading, identify problematic aspects under the existing law in fighting it, and determine the enforcement problems can provide a more organised method of insider trading problem. The laws are largely reasonable and have the restrictive value to prohibit criminals from committing it in the future. Nevertheless, the rate of prosecution is largely unaffected, and the problems are greatly exacerbated when it is difficult to implement and impose criminal law in prosecuting the suspected offenders. In recognition of the impasse, the civil proceedings against the suspected insiders are used by SC. This action brings benefit to the victims, and it is hoped to restore investor's confidence in the market with some enhancements made particularly about the CMSA 2007.

⁵⁰⁷ Kadir, R. and Muhamad, S. (2012).

⁵⁰⁸ Wong, E. S. K., Fatt, C. K., & Yok, P. Y. P.. "Disclosure and corporate governance of insider trading: The Malaysian perspectives." *African Journal of Business Management* 4, no. 9 (2010): 1883.

⁵⁰⁹ Ameer, Rashid, and Radiah Othman. "Insider trading in Malaysia." (2012).

⁵¹⁰ Kadir, R. and Muhamad, S. (2012).

4.7 Conclusion

After the Asian crisis, the Malaysian regulatory authorities began to recognise the importance of good CG and disclosure. CG is admittedly a key factor for disclosure, and special attention from researchers is thus warranted. Hence, the role of this study was to explore the factors that cause poor CG and weak disclosure of information of companies. In particular, this study analysed the law and policy on disclosure applicable to PLCs. Furthermore, the study provided an analysis of the disclosure principles of MCCG and whether these principles apply to the disclosure policies of the CMSA 2007, disclosure provisions of CA 2016, and the rules of BMLR. The study also took into consideration other regulations such as Financial Services Act 2013, Securities Commission Act 1993 (SCA), and Central Bank of Malaysia Act 2009 as shown in Figure 4.6.

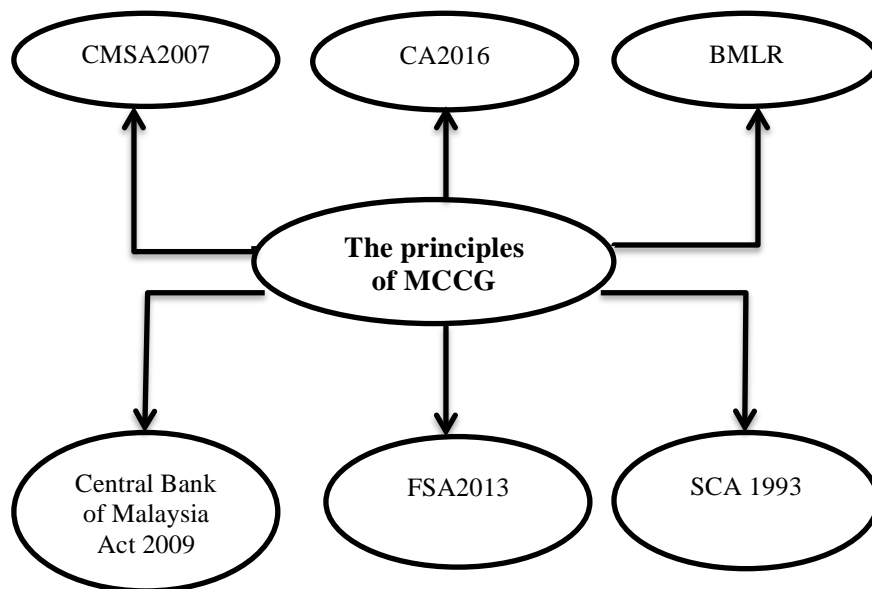


Figure 4.6: Law and policy of corporate disclosure which applicable to the MCCG

Figure 4.6 illustrates the rules and regulations on corporate disclosure and how the three regulations (i.e., BMLR, CMSA, and CA) apply to MCCG. Figure 4.6 also relies on other regulations such as Financial Services Act 2013, Securities Commission Act 1993 (SCA), and Bank Negara Malaysia Act 2009 with the purpose of enhancing and supporting the study analysis. However, the analysis revealed that BM had adopted most of the recommendations of the MCCG 2000 with the purpose of enhancing the transparency of PLCs disclosure, which require companies to include in their annual reports the statement of internal control, statement of CG, board of directors' composition, composition of audit committee, quorum of audit committee, and any other statements by the board of directors. Further, the study also revealed that MCCG has strongly advocated the separation of duties between the CEO and chairman even though BMLR does not emphasise this as a criterion. Furthermore, the study showed the quality level of disclosures by listed issuers on BMLR and MCCG. The study also revealed that companies comply highly with BMLR. The review further showed that companies also had embraced the principles of the MCCG and in most aspects adopted its recommendations.

Furthermore, the result of this study revealed that SC provides high standards of CG to uphold the integrity of the market, as it is the role of BM to monitor the level of adherence to CG standards by performing constant reviews of CG disclosures in annual reports. BM also engages listed issuers on their shortcomings on disclosure to ensure sufficient and precise information of their CG practices. Under financial reporting, as per Principle 5, the report notes a high rate of BMLR compliance but

“generally not of very high quality especially where the summary of activities of the audit committee is concerned”⁵¹¹.

Principle 5, in essence, considers the role of the audit committee towards ensuring reliable financial statements. It also sheds light on the role of the committee in evaluating the appropriateness and autonomy of external auditors. By making reference to the annual reports, it can be noticed that the bulk of the listed issuers reviewed had an inclination of repeating the audit committee terms of reference or audit plan as described in the audit committee’s activities, which indicates that audit committee reports used a “tick-box” approach rather than engaging in meaningful disclosures. Furthermore, it is noted that there was a lack of disclosure on whether the boards had the policy to assess the suitability and independence of external auditors.

Additionally, the study revealed the significance of the information disclosure in the annual reports as highlighted in Principle 7 of MCCG and the disclosure sections of BMLR, both of which consider information disclosure as an important and efficient means of protecting shareholders. The study also showed that adequate and timely information about corporate performance enables investors to make informed decisions and help the market reflects the value of a corporation under present management. Also, the study showed that Principle 7 of MCCG and the provisions of BMLR indicate the responsibilities of the directors to ensure high quality of the companies’ financial statements. The study further showed that high quality and

⁵¹¹ Price, John. "Audit quality: The role of directors and audit committees." *Governance Directions* 66, no. 7 (2014): 392.

accurate disclosure could reduce information asymmetry and clarify the conflict of interests between the shareholders and the management,

A study by ACCA, Global found an occasional mismatch between what is expected by the regulators and what is understood by corporations. ‘What constitutes a good disclosure versus minimum disclosure? It has been argued that if the reasons and objectives are not well understood, then people will just comply for the sake of complying. ‘This is not much different from people who only fasten their seatbelts when they see a policeman up ahead.’⁵¹²

Finally, this part identified some of the important tools applied to the reforms of the Malaysian CG. It was found that the tools that have been put in place are comprehensive and cover a wide spectrum of the disclosure principle but these regulations disperse in more than one statute or legal documents. That is, some of the principles or regulations can be found in MCCG or BMLR while others in CMSA or CA. The dispersion of the regulations raise the question about why the legislature does not issue a provision that addresses all the disclosure matters under a specific Act/ Law such as Corporation Disclosure Act?

⁵¹² ACCA, Global. “Must do better’: listed companies and disclosure”. The global body for professional accountants. (2015). Available at: <http://www.accaglobal.com/us/en/member/member/accounting-business/insights/bursa-malaysia.html>

CHAPTER FIVE

THE APPLICATION OF CORPORATE GOVERNANCE PRINCIPLES AND BMLR AMONG PUBLIC LISTED COMPANIES

5.1 Introduction

This chapter examines the application of CG principles and BMLR among PLCs. It is presented clearly according to corporate disclosure categories which include MCCG principles, CA2016, CMSA 2007 and BMLR. Data were collected from the companies' annual reports in 2012, 2013, 2014 and 2015, and the result is tabulated by sector according to the BM as discussed below. Additionally, the results have been supported by an interview with two expert persons from Securities Commission and Companies Commission.

5.2 Corporate Governance Principles

In the annual reports, 11 items indicate how the PLCs delivered their information, which include good CG practice, taking corrective action, PLCs are in line with the principles of the MCCG, implement effective disclosure, PLCs disclose the extent of complying with the CG, enhancing CG practices, ensure accurate and timely disclosure, company's performance in implementing CG, disclosure of information

through annual report, ensure appropriate disclosure policies and disclose personal interest. The selection of these elements was based on the MCCG principles, sections of CMSA 2007, chapters 9 and 15 of BMLR, and existing literature. All of these elements were examined using content analysis of the companies' annual reports.

5.2.1 Good Corporate Governance

Good CG is defined as

"a relationship pattern between management with its stakeholders, management with board of commissioner and with members of management itself. This relationship is based on ethics, corporate culture and corporate value and supported by system, process, working procedures and organization in achieving maximum performance".⁵¹³

Poor CG has been widely reported as a major factor that led to the 1997 Asian crisis, which forced the Malaysian government to adopt CG reforms that could enhance the quality of CG practice.⁵¹⁴ A good CG system should consist of a set of rules that defines the relationships between shareholders, managers, other stakeholders, and a set of mechanisms that helps directly or indirectly to enforce these rules.⁵¹⁵ Thus, only Good Governance can deliver sustainable Good Business Performance.⁵¹⁶ Table 5.1 presents the elements of good CG according to different sectors of PLCs starting from the year of 2012 until 2015. The table also shows the percentage (%) of reported (R) and unreported (UR) elements of good CG based on the companies' annual reports.

⁵¹³ HLFC, (1999). P1

⁵¹⁴ Khatri, Y., Leruth, L., and Piesse, J. (2002).

⁵¹⁵ Ibid

⁵¹⁶ Securities Commission. "Malaysian code on corporate governance." Kuala Lumpur, Malaysia (2017).

Table 5.1

The Element of Good CG

Year	2012		2013		2014		2015	
	R	UR	R	UR	R	UR	R	UR
Sectors	No %	No %	No %	No %	No %	No %	No %	No %
Closed-End funds	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Consumer Products	38 17%	0 0%	38 17%	0 0%	38 17%	0 0%	38 17%	0 0%
Finance	10 4%	0 0%	10 4%	0 0%	10 4%	0 0%	10 4%	0 0%
Hotels	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%
Industrial Products	70 31%	0 0%	70 31%	0 0%	70 31%	0 0%	70 31%	0 0%
IPC	2 1%	0 0%	2 1%	0 0%	2 1%	0 0%	2 1%	0 0%
Mining	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Plantation	13 6%	0 0%	13 6%	0 0%	13 6%	0 0%	13 6%	0 0%
Properties	27 12%	0 0%	27 12%	0 0%	27 12%	0 0%	27 12%	0 0%
REITS	5 2%	0 0%	5 2%	0 0%	5 2%	0 0%	5 2%	0 0%
SPAC	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%
Trading/ Services	56 25%	0 0%	56 25%	0 0%	56 25%	0 0%	56 25%	0 0%
Total	223 100%	0 0%	223 100%	0 0%	223 100%	0 0%	223 100%	0 0%

Table 5.1 shows that 223 (100%) of the companies in four years (2012 until 2015) had implemented good CG practices. In this regard, R26 attested the importance of such practice: “The Board...recognises the importance of good corporate governance and is committed to maintaining high standard of corporate governance”.⁵¹⁷ Also, R111 remarked a similar point of view, “The directors...view that the presence of good corporate governance is fundamental to the continued growth of the Group”.⁵¹⁸ Others echoed the same sentiment: “The Company subscribes to the ideals of good Corporate Governance and fair dealing in all its activities with a view to increasing shareholders' value” (R7).⁵¹⁹ “The Board of Directors (“Board”) believes that a sound corporate governance structure is vital to ensure sustainability as well as

⁵¹⁷ Ekovest Berhad. “Annual report.” (2014). P23.

⁵¹⁸ HO Wah Genting Berhad. “Annual report.” (2014). P17.

⁵¹⁹ Apex Healthcare Berhad. “Annual report.” (2015). P25.

business growth” (R8).⁵²⁰ “The Board... continues to uphold its commitment to good corporate governance practices” (R69).⁵²¹

Also, the board is responsible for ensuring good CG by determining the corporate strategy, providing guidance, and oversight to senior management. It is also responsible for approving and reviewing the overall business strategies, significant policies, and structure of the organisation. R211 said, “The Board of Directors...maintain sound corporate governance to direct the businesses and practices of the Group...”.⁵²²

The results showed that all listed companies under study were committed to ensuring and enhancing good CG practices because they are useful for improving business and market performance indicators. According to Ngee⁵²³ and Zulkafli⁵²⁴, good CG is considered the key to a robust and competitive corporate sector, which serves as a source for sustainable economic growth. In line with that IR1 highlighted “*The function of the code of CG is to support good practice and to supplement*”⁵²⁵. IR2 was also of the same view and stated that “*By right, the companies should practice good CG even its voluntary requirements*”⁵²⁶.

⁵²⁰ AE Multi Holdings Berhad. “Annual report.” (2014). P34.

⁵²¹ Lafarge Malaysia Berhad. “Annual report.” (2014). P11.

⁵²² Lion Industries Corporation Berhad. “Annual report.” (2014). P9.

⁵²³ Ngee, Philip KOH Tong. “Corporate Governance in Malaysia.” *Reforming corporate governance in Southeast Asia: economics, politics, and regulations* (2005): 102.

⁵²⁴ Zulkafli, A., M. F. AdulSamad, and M. I. Ismail. “Corporate governance in Malaysia.” *Malaysian Institute of Corporate Governance* 18, no. 1 (1999).

⁵²⁵ Aishah Bidin, Companies Commission of Malaysia, interview by author, UKM, Kajang, Selangor, Malaysia, October 21, 2016

⁵²⁶ Kelly Kheng, Securities Commission of Malaysia, e-mail message to author, December 8, (2016).

5.2.2 Taking Corrective Action for Public Listed Companies

Corrective action has been defined as,

"The improvements to an organisation's processes taken to eliminate reasons of non-conformities or other unwelcome situations, it is any practical methodology used to determine potential discrepancies before they occur and to ensure that they do not happen".⁵²⁷

Corrective actions are the channel for improvement and effectiveness of quality management systems to identify the problem, and prompt corrective actions are taken to remedy any significant failings or weaknesses, (e.g. requiring them to tidy up their financial statements).⁵²⁸ However, management is responsible for implementing the processes for identifying, evaluating, monitoring and reporting of risks and internal control, taking appropriate and timely corrective actions as needed, and for providing assurance to the board that the processes have been carried out.⁵²⁹

Table 2.1 provides a snapshot of the elements of corrective actions for the Malaysian PLCs.

Table 5.2

Corrective Action

Year	2012		2013		2014		2015	
	R	UR	R	UR	R	UR	R	UR
Sectors	No	%	No	%	No	%	No	%
Closed-End funds	0	0%	0	0%	0	0%	0	0%
Consumer Products	30	13%	33	15%	35	16%	36	16%
Finance	9	4%	7	3%	5	2%	9	4%

⁵²⁷ ISO, BSEN. "Quality management systems. Fundamentals and vocabulary". *British Standards Institution*. (2005).

⁵²⁸ International Atomic Energy Agency (IAEA), "Effective corrective actions to enhance operational safety of nuclear installations", the *IAEA in Austria*, (July 2005). P4-5.

⁵²⁹ Mazni Abdullah, et al. "Some Observations on Mandatory Disclosure Practices of Malaysian Public Listed Companies". *Middle-East Journal of Scientific Research* 17 (9): 1228-1236, (2013).

Hotels	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%
Industrial Products	65 29%	5 2%	67 30%	3 1%	68 30%	2 1%	68 30%	2 1%
IPC	1 0%	1 0%	2 1%	0 0%	2 1%	0 0%	1 0%	1 0%
Mining	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Plantations	11 5%	2 1%	11 5%	2 1%	12 5%	1 0%	13 6%	0 0%
Properties	26 12%	1 0%	27 12%	0 0%	26 12%	1 0%	26 12%	1 0%
REITS	4 2%	1 0%	3 1%	2 1%	5 2%	0 0%	4 2%	1 0%
SPAC	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%
Trading/ Services	56 25%	0 0%	54 24%	2 1%	54 24%	2 1%	55 25%	1 0%
Total	204 91%	19 9%	206 92%	17 8%	209 94%	14 6%	214 96%	9 4%

Table 5.2 illustrates that most of the companies annual reports (e.g. 91% in 2012 and 96% in 2015) reported corrective actions to uphold PLC practices. R68 stressed that such practice was “...ensure that appropriate action is taken on the recommendations of the internal audit function”.⁵³⁰ Such practice was also implemented to ensure that the company had an appropriate risk control environment. According to R47, taking corrective actions was “...to allow for timely responses and corrective actions to be taken to mitigate risks”.⁵³¹ Corrective actions could also be provided by internal control. R222 stressed that “...which also provides a degree of assurance as to the validity of the systems of internal control. Planned corrective actions are independently monitored for timely completion”.⁵³²

Furthermore, some companies made it clear that the susceptible risk measures were appropriately taken on outstanding internal audit issues to ensure that all the key risks and control lapses were duly addressed. R218 stated that “...monitored the corrective actions taken on the outstanding audit issues to ensure that all the key risks and control lapses have been addressed”.⁵³³ Moreover, R20 indicated that internal

⁵³⁰ AE Multi Holdings Berhad. “Annual report.” (2014). P44.

⁵³¹ Affin Holdings Berhad. “Annual report.” (2014). P50.

⁵³² Luster Industries Bhd. “Annual report.” (2015). P25.

⁵³³ Utusan Melayu (Malaysia) Berhad. “Annual report.” (2014). P19.

audit functions had not been appropriately taken the corrective action in regards to the recommendation, "...the results of the internal audit programme, processes or investigation undertaken and whether or not appropriate action is taken on the recommendations of the internal audit functions".⁵³⁴

In sum, the result showed that of the majority of the companies reported corrective actions in lieu of unforeseen and probable causes of business failures, indicating that they did not conform to standard operating procedures of corporations. Further, whenever unusual market actions take place in a PLC's securities, the company is expected to make an inquiry to determine whether rumours or other conditions requiring corrective action exist and if so, to take whatever action is appropriate. A PLC is to refrain from promotional disclosure exceeding what is necessary for the public to make informed investment decisions⁵³⁵. This result is similar to Ong (2011)⁵³⁶ and Zainudin (2016)⁵³⁷. In this regard, IR2 stated that *"Yes, when the companies face any conflict or mislead in their performance they should immediately take a corrective action to maintain the relation with the investors"*.⁵³⁸

5.2.3 Alignment with the Principles of the Malaysian Code of Corporate Governance

The Code of CG indicates that all PLCs must comply with its rules and recommendation to improve the quality of the board of listed companies to achieve

⁵³⁴ Bio Osmo Berhad. "Annual report." (2014). P19.

⁵³⁵ OECD. Publishing, and Conference on Corporate Governance in Asia: a Comparative Perspective. Corporate governance in Asia: a comparative perspective. Organisation for Economic Co-operation and Development, 2001.

⁵³⁶ Ong, Shuk-Wern, Voon Choong Yap, and Roy WL Khong. "Corporate failure prediction: a study of public listed companies in Malaysia." *Managerial Finance* 37, no. 6 (2011): 553-564.

⁵³⁷ Zainudin, E. F., & Hashim, H. A. "Accounting Irregularities in Financial Statements: an Analysis of Public Reprimand Announcement." *Malaysian Accounting Review* 15, no. 1 (2016).

⁵³⁸ Kelly Kheng, Securities Commission of Malaysia, e-mail message to author, December 8, 2016.

the objective of promoting a more conducive environment for investors in the Malaysian capital market.⁵³⁹ Table 5.3 provides a snapshot of whether the PLCs are in line with principles of MCCG from 2012 until 2015.

Table 5.3

PLCs in Line with principles of MCCG

Year	2012		2013		2014		2015	
Sectors	R No %	UR No %	R No %	UR No %	R No %	UR No %	R No %	UR No %
Closed-End funds	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Consumer Products	38 17%	0 0%	38 17%	0 0%	38 17%	0 0%	38 17%	0 0%
Finance	10 4%	0 0%	10 4%	0 0%	10 4%	0 0%	10 4%	0 0%
Hotels	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%
Industrial Products	70 31%	0 0%	70 31%	0 0%	70 31%	0 0%	70 31%	0 0%
IPC	2 1%	0 0%	2 1%	0 0%	2 1%	0 0%	2 1%	0 0%
Mining	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Plantations	13 6%	0 0%	13 6%	0 0%	13 6%	0 0%	13 6%	0 0%
Properties	27 12%	0 0%	27 12%	0 0%	27 12%	0 0%	27 12%	0 0%
REITS	5 2%	0 0%	5 2%	0 0%	5 2%	0 0%	5 2%	0 0%
SPAC	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%
Trading/ Services	56 25%	0 0%	56 25%	0 0%	56 25%	0 0%	56 25%	0 0%
Total	223 100%	0 0%	223 100%	0 0%	223 100%	0 0%	223 100%	0 0%

Table 4.1 shows that 223 (100%) companies in 12 sectors disclosed that they were in line with the principles of MCCG from the year of from 2012 until 2015. R32 stressed that “In line with the MCCG 2012...the Company outsourced its internal audit function to an independent professional firm to assess the adequacy and effectiveness of the Group's governance”.⁵⁴⁰ Also, R3 reiterated that “The Board of Directors supports Malaysia Code of Corporate Governance (‘MCCG’) and is

⁵³⁹ Leng, Allan Chang Aik. "The impact of corporate governance practices on firms' financial performance: Evidence from Malaysian companies". *ASEAN Economic Bulletin* (2004): 308-318.

⁵⁴⁰ Boilermach Holdings Berhad. “Annual report.” (2014). P26.

committed to achieving full compliance with its principles...”.⁵⁴¹ Also, R141 remarked, “The Board fully supports the principles set out in the Malaysian Code on Corporate Governance 2012 (“Code”) and is pleased to outline the manner in which the Group has applied the principles set out in the Code”.⁵⁴² Similarly, R184 stated that “The Board... outlines how the Group has applied the principles laid down in the Malaysian Code on Corporate Governance 2012 (the Code)”.⁵⁴³

In conclusion, PLCs in Malaysia had applied a high level of disclosure principles of MCCG. The result is in line with Leong (2014)⁵⁴⁴ and Haniffa (2006)⁵⁴⁵. This was confirmed by IR1 which indicated that *“the companies conform to the principles of MCCG for the betterment and improvements in service delivery to develop conducive business environments for shareholders and the public at large”*⁵⁴⁶.

5.2.4 Develop and Implement Effective Corporate Disclosure Policies

An effective CG framework requires a sound, legal; the regulatory and institutional foundation upon which all market participants can rely when they enter into contractual relations.⁵⁴⁷ For this purpose, a company is committed to supporting the timely and accurate disclosure of material information to facilitate efficient capital market activities. It is the policy of the company to disclose all material information

⁵⁴¹ Emico Holdings Berhad. “Annual report.” (2014). P20.

⁵⁴² Malaysia Pacific Corporation Berhad. “Annual report.” (2015). P17.

⁵⁴³ Compugates Holdings Berhad. “Annual report.” (2014). P9.

⁵⁴⁴ Leong, Ho Khai, ed. *Reforming corporate governance in Southeast Asia: economics, politics, and regulations*. Institute of Southeast Asian Studies, 2005.

⁵⁴⁵ Haniffa, Roszaini, and Mohammad Hudaib. "Corporate governance structure and performance of Malaysian listed companies." *Journal of Business Finance & Accounting* 33, no. 7-8 (2006): 1034-1062.

⁵⁴⁶ Aishah Bidin, Companies Commission of Malaysia, interview by author, UKM, Kajang, Selangor, Malaysia, October 21, (2016).

⁵⁴⁷ Manitoba Telecom Services INC, “Corporate Disclosure Policy and Practices”. February, (2014). Available at: https://www.mts.ca/file_source/mts.ca/Static_Files/Raw_PDF/CorporateDisclosure_PolicyFinal_English.pdf

in accordance with the requirements as set out in legislation and the rules and regulations of the Code.⁵⁴⁸

Table 5.4

Effective Corporate Disclosure Policies

Year	2012		2013		2014		2015	
	R	UR	R	UR	R	UR	R	UR
Sectors	No	%	No	%	No	%	No	%
Closed-End funds	0	0%	0	0%	0	0%	0	0%
Consumer Products	38	17%	0	0%	34	15%	4	2%
Finance	10	4%	0	0%	10	4%	0	0%
Hotels	1	0%	0	0%	1	0%	0	0%
Industrial Products	66	30%	4	2%	68	30%	2	1%
IPC	2	1%	0	0%	2	1%	0	0%
Mining	0	0%	0	0%	0	0%	0	0%
Plantations	9	4%	4	2%	11	5%	2	1%
Properties	22	10%	5	2%	23	10%	4	2%
REITS	5	2%	0	0%	5	2%	0	0%
SPAC	1	0%	0	0%	1	0%	0	0%
Trading/ Services	50	22%	6	3%	53	24%	3	1%
Total	204	91%	19	9%	207	93%	16	7%

Table 5.4 presents the finding of effective corporate disclosure policies among PLCs. It reveals that 204 (91%) companies reported effective corporate disclosure policies while 19 (9%) did not report effective disclosure policies to enable shareholders and stakeholders to gain access to business information beyond the company's financial disclosure and maintain effective communications between the company and its shareholders and stakeholders. On this practice, the analysis of the company's annual reports asserted the importance of such policy. "The Board affirms its overall responsibility for the effective governance, risk management and internal controls

⁵⁴⁸ Collett, Peter, and Sue Hrasky. "Voluntary disclosure of corporate governance practices by listed Australian companies". *Corporate Governance: An International Review* 13, no. 2 (2005): 188-196.

systems of the Group” (R5).⁵⁴⁹ “...the Group adopts the practice of comprehensive, timely, and continuing disclosures of information to its shareholders as well as to the general investing public” (R8).⁵⁵⁰ “The Group Corporate Disclosure Policy provides the proper framework and guidelines to govern the release of material and sensitive information so as not to mislead the public and shareholders”.⁵⁵¹ “The Company aims to maintain a clear, transparent and informed communication channel with its shareholders and potential investors” (R214).⁵⁵² “The Company disseminates information via an annual report, circular to shareholders and announcements periodically and adheres to the disclosure requirement of Bursa Securities” (R190).⁵⁵³

The finding indicates that the majority of the companies under study were committed to implementing disclosure policy to ensure timely and effective communication of all material information to investors. This result was supported by Saira (2010)⁵⁵⁴ and Hashim (2014)⁵⁵⁵. Moreover, (IR2) highlighted the importance of implementing such policies “...companies must improve and enhance the systems of internal control and the shareholder's agreement”.⁵⁵⁶

5.2.5 The Extent of Compliance with the Corporate Governance

The CG states that companies must disclose the extent they have followed the rules set by the Code during the reporting period. If a company did not follow a rule for

⁵⁴⁹ Goldis Berhad. “Annual report.” (2014). P26.

⁵⁵⁰ Khind Holdings Berhad. “Annual report.” (2014) P19.

⁵⁵¹ Felda Global Ventures Holdings Berhad. “Annual report.” (2014). P132.

⁵⁵² Voir Holdings Berhad. “Annual report.” (2014). P18.

⁵⁵³ Pjbumi Berhad. “Annual report.” (2014). P16.

⁵⁵⁴ Saira, Kharuddin, Mohd Zariyawati, and Md Nassir Annuar. "Information system and firms' performance: the case of Malaysian small medium enterprises." *International business research* 3, no. 4 (2010): 28.

⁵⁵⁵ Hashim, Mohd Hafiz, Anuar Nawawi, and Ahmad Saiful Azlin Puteh Salin. "Determinants of strategic information disclosure-Malaysian evidence." *International Journal of Business and Society* 15, no. 3 (2014): 547.

⁵⁵⁶ Kelly Kheng, Securities Commission of Malaysia, e-mail message to author, December 8, 2016.

any part of the reporting period, it must separately identify that rule or any alternative governance practice it adopted in lieu of the rule.⁵⁵⁷ However, the directors must disclose the extent of compliance with the Code and the auditor shall report whether the disclosure is consistent with the requirements.⁵⁵⁸

Table 5.5

The Extent of Compliance with the CG

Year	2012		2013		2014		2015	
Sectors	R No %	UR No %	R No %	UR No %	R No %	UR No %	R No %	UR No %
Closed-End funds	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Consumer Products	37 17%	1 0%	35 16%	3 1%	35 16%	3 1%	38 17%	0 0%
Finance	10 4%	0 0%	10 4%	0 0%	8 4%	2 1%	10 4%	0 0%
Hotels	1 0%	0 0%	0 0%	1 0%	0 0%	1 0%	1 0%	0 0%
Industrial Products	56 25%	14 6%	59 26%	11 5%	61 27%	9 4%	62 27%	8 4%
IPC	2 1%	0 0%	2 1%	0 0%	1 0%	1 0%	2 1%	0 0%
Mining	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Plantations	10 4%	3 1%	11 5%	2 1%	12 5%	1 0%	13 6%	0 0%
Properties	18 8%	9 4%	20 9%	7 3%	24 11%	3 1%	25 11%	2 1%
REITS	2 1%	3 1%	3 1%	2 1%	5 2%	0 0%	4 2%	1 0%
SPAC	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%
Trading/ Services	40 18%	16 7%	45 20%	11 5%	49 22%	7 3%	51 23%	5 2%
Total	177 79%	46 21%	186 83%	37 17%	196 88%	27 12%	207 93%	16 7%

Table 5.5 illustrates the extent of compliance with the CG. It shows that in 2012, 177 (79%) companies reported the extent of compliance with the CG. The number went up in 2013 to 186 (83%) and 207 (93%) in 2015. Hence, the MCCG indicates that PLCs are required to disclose the extent to which they comply with the provisions of the Code. Where a company does not comply with any provision of the Code, it must identify such provision or article that is not complied with, and justify and explain

⁵⁵⁷ Hossain, Mohammed. "The Extent of Compliance of Corporate Governance Disclosure: Evidence from Indian Banking Companies". Dear readers!. (2008): 440.

⁵⁵⁸ MCCG, (2012).

the reasons and rationale behind its non-compliance. The majority of PLCs seemed to comply with the provision of the Code. The qualitative interviews also attested to this: “...the Company has applied the Principles of Corporate Governance and the extent of compliance with the Recommendations as set out in the Malaysian Code on Corporate Governance 2012” (R81).⁵⁵⁹ “The Board...applied the principles and the extent of compliance with the Recommendations as set out in the Malaysian Code on Corporate Governance 2012 (“MCCG 2012”) issued by the Securities Commission” (R66).⁵⁶⁰ “...the extent of compliance with the code as required under the Main Market Listing Requirements (“MMIR”) of Bursa Malaysia securities Berhad (“Bursa Malaysia”). These recommendations have been applied by the company and its subsidiaries” (R151).⁵⁶¹ “... the Group has applied the guiding principles of good governance, and the extent to which it has complied with the Principles and Recommendations set out in the Malaysian Code on Corporate Governance 2012” (R2).⁵⁶²

The result provides a clear view of the extent of compliance with the CG. This result is in line with principle 6.05 (a) of BMLR which requires companies to state in their annual report the extent of their compliance with an explanation for any departure. In fact, IR1 stressed the need for companies to comply and the consequence of failing to comply with such requirements. He indicated that “...*there is specification under the*

⁵⁵⁹ V.S. Industry Berhad. “Annual report.” (2014). P27.

⁵⁶⁰ Emas Kiara Industries Berhad. “Annual report.” (2014). P21.

⁵⁶¹ Asiamet Education Group Berhad. “Annual report.” (2014). P19.

⁵⁶² Lion Forest Industries Berhad. “Annual report.” (2015). P10.

Companies Act to ensure that companies must comply... so if the companies did not comply then, of course, they could be penalised”⁵⁶³.

5.2.6 Enhancing Corporate Governance Practices

To communicate to shareholders the strength of their CG structures, policies and practices, listed companies and public corporations should be encouraged to include in their annual report a statement on CG such a statement on CG should be presented separately in the annual report. It is also important to enhance transparency and allow more informed judgments to be made on the fairness and reasonableness of directors' remuneration in the light of the performance of the company.⁵⁶⁴ Also, provision should be made for the individual directors' share options during the year. To aid communication with the readers of financial statements, the directors should set out in separate statements their responsibilities in connection with the preparation of the financial statements.⁵⁶⁵

Table 5.6

Enhancing CG Practices

Year	2012		2013		2014		2015	
	R	UR	R	UR	R	UR	R	UR
Sectors	No	%	No	%	No	%	No	%
Closed-End funds	0	0%	0	0%	0	0%	0	0%
Consumer Products	37	17%	1	0%	34	17%	38	17%
Finance	10	4%	0	0%	9	4%	10	4%
Hotels	1	0%	0	0%	1	0%	0	0%
Industrial Products	63	28%	7	3%	65	28%	67	30%
IPC	1	0%	1	0%	2	0%	1	0%

⁵⁶³ Aishah Bidin, Companies Commission of Malaysia, interview by author, UKM, Kajang, Selangor, Malaysia, October 21, 2016.

⁵⁶⁴ Hong Kong Society of Accountants, “Corporate Governance Disclosure In Annual Reports”. *A Guide to Current Requirements and Recommendations for Enhancement*. (2001).

⁵⁶⁵ Ibid

Mining	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Plantations	11 5%	2 1%	10 5%	3 1%	12 5%	1 0%	12 5%	1 0%
Properties	26 12%	1 0%	26 12%	1 0%	26 12%	1 0%	27 12%	0 0%
REITS	5 2%	0 0%	4 2%	1 0%	5 2%	0 0%	5 2%	0 0%
SPAC	1 0%	0 0%	1 0%	0 0%	0 0%	1 0%	1 0%	0 0%
Trading/ Services	49 22%	7 3%	51 22%	5 3%	53 24%	3 1%	54 24%	2 1%
Total	204 91%	19 9%	203 91%	20 9%	209 94%	14 6%	217 97%	6 3%

Table 5.6 presents the mode of enhancing CG practices by companies under study. As shown, 204 (91%) companies reported the enhancements of CG practices in 2012. This number increased to 97% in 2017. R111 indicated the importance of the effective and sound system of internal control to enhance good CG.⁵⁶⁶ R76 pointed out the role of the board of the companies in requiring enhancement of CG practices to meet the CG standards.⁵⁶⁷ Also, R211 remarked that “The Board of Directors (“Board”) recognises the importance of practising and maintaining sound corporate governance to direct the businesses and practices of the Group...”.⁵⁶⁸ Similarly, R6 stated that

“The Board is aware of the need to establish corporate disclosure policies and procedures to enable comprehensive, accurate and timely disclosures about the Company and its subsidiaries to regulators, shareholders and stakeholders”.⁵⁶⁹

The result demonstrated that most of the companies included a statement on CG in their annual reports to enhance disclosure and allow for adequate transparency. Suitable corporate financial reporting is essential to investors to make better decisions on a more timely and informed basis which is in line with the findings of

⁵⁶⁶ Ho Wah Genting Berhad. “Annual report.” (2014). P25.

⁵⁶⁷ Timberwell Berhad. “Annual report.” (2014). P31.

⁵⁶⁸ Lion Industries Corporation Berhad. “Annual report.” (2014). P9.

⁵⁶⁹ Nestle (Malaysia) Berhad. “Annual report.” (2014). P15.

Fung (2014)⁵⁷⁰. Furthermore, Che Haat (2008) highlighted that one of the ways to improve investor confidence is to have good governance practices that may contribute to better financial disclosures and more transparent business reporting⁵⁷¹. Also, IR2 pointed out the importance of such statement: “Yes, it's true, since enhancing CG practices is an instrument of protecting and enhancing the shareholder's interest”.⁵⁷²

5.2.7 Ensure Accurate and Timely Disclosure

The MCCG in recommendation 1.5 indicates that every listed company should disclose material information to the public. Disclosure and transparency are essential for informed decision-making. The timely and availability of quality and accurate information including the reporting of financial performance are key facets of investor protection and market confidence to enable the board to discharge its duties effectively.⁵⁷³ Hence, continuous disclosure documents are provided in the investor relations section of the company's website. All information posted shows the issuing of the material. The website includes a notice which advises readers whether the information was accurate. Any material changes in the information must be updated immediately.⁵⁷⁴

⁵⁷⁰ Fung, Benjamin. "The demand and need for transparency and disclosure in corporate governance." *Universal Journal of Management* 2, no. 2 (2014): 72-80.

⁵⁷¹ Che Haat, Mohd, Rashidah Abdul Rahman, and Sakthi Mahenthiran. "Corporate governance, transparency and performance of Malaysian companies." *Managerial Auditing Journal* 23, no. 8 (2008): 744-778.

⁵⁷² Kelly Kheng, Securities Commission of Malaysia, e-mail message to author, December 8, 2016.

⁵⁷³ Recommendation 1.5 of the MCCG

⁵⁷⁴ Information Services Corporation. "Disclosure Policy", *Vice President, Corporate Affairs & General Counsel*. (2014). Available at: <https://www.isc.ca/About/CorporateGovernance/Documents/Disclosure%20Policy.pdf>

Table 5.7

Accurate and Timely Disclosure

Year	2012		2013		2014		2015	
	R	UR	R	UR	R	UR	R	UR
Sectors	No	%	No	%	No	%	No	%
Closed-End funds	0	0%	0	0%	0	0%	0	0%
Consumer Products	38	17%	36	16%	38	17%	38	17%
Finance	10	4%	7	3%	9	4%	10	4%
Hotels	1	0%	1	0%	0	0%	0	0%
Industrial Products	68	30%	68	30%	70	31%	69	30%
IPC	2	1%	1	0%	1	0%	2	1%
Mining	0	0%	0	0%	0	0%	0	0%
Plantations	12	5%	10	4%	12	5%	13	6%
Properties	26	12%	26	12%	27	12%	26	12%
REITS	5	2%	4	2%	4	2%	5	2%
SPAC	1	0%	1	0%	1	0%	1	0%
Trading/ Services	55	25%	51	23%	55	25%	56	25%
Total	218	98%	205	92%	217	97%	220	99%

Table 5.7 shows 218 (98%) companies reported accurate and timely disclosure. This percentage went down to 205 (92%) in 2013 and rose again to 220 (99%) in 2015. Many companies were committed to disclosing information accurately and timely for their benefit: “...to establish corporate disclosure policies and procedures to enable comprehensive, accurate and timely disclosures relating to the Company and its subsidiaries” (R78).⁵⁷⁵ “...to provide shareholders and investors with comprehensive, accurate and quality information on a timely and even basis” (R66).⁵⁷⁶ “The Group is committed to providing accurate, timely, consistent and fair disclosure of corporate information to enable informed and orderly market decisions as well as compliance with the Listing Requirements...” (R106).⁵⁷⁷ “...to ensure accurate, clear, timely and

⁵⁷⁵ Multi-Usage Holdings Berhad. “Annual report.” (2014). P19.

⁵⁷⁶ Emas Kiara Industries Berhad, “Annual report.” (2014). P31.

⁵⁷⁷ Choo Bee Metal Industries Bhd. “Annual report.” (2015). P25.

complete disclosure of material information necessary for informed meeting and take reasonable steps to ensure that all who invest in the Company's securities enjoy equal access to such information" (R112).⁵⁷⁸

In sum, PLCs disclosed accurate and timely material information necessary for informed investment and took reasonable steps to ensure that all who invest in their securities enjoy equal access to such information according to section 9.02 (1) of BMLR. According to Ahmed (2014), every company has to ensure accurate and timely disclosure of material information to the public investors. In this context, IR2 stressed that "By right every listed company must ensure, accurate and timely disclosure to maintain the relationship as well as the communications with its shareholders as well as other investors".⁵⁷⁹

5.2.8 Board of Directors Function

The MCCG in recommendation 1.2 states that the function of the board is to oversee the performance of management to determine whether the business is being properly managed. The board's obligation to oversee the performance of management contemplates a collegial relationship that is supportive yet vigilant. Therefore, the Board must ensure that there are measures in place against which the management's performance can be assessed⁵⁸⁰. Thus, companies should implement best practice to improve and enhance their performance.⁵⁸¹

⁵⁷⁸ Woodlandor Holdings Bhd. "Annual report." (2014). P20.

⁵⁷⁹ Kelly Kheng, Securities Commission of Malaysia, e-mail message to author, December 8, (2016).

⁵⁸⁰ Recommendation 1.2 of the MCCG

⁵⁸¹ Todorović, Igor. "Impact of corporate governance on performance of companies". "Corporate Governance Practices and Problems: Research from the South East Europe". Volume 9 Number 2 May 2013 UDC 33 (51) (2013): 47.

Table 5.8

Board of Directors Function

Year	2012		2013		2014		2015	
	R	UR	R	UR	R	UR	R	UR
Sectors	No	%	No	%	No	%	No	%
Closed-End funds	0	0%	0	0%	0	0%	0	0%
Consumer Products	38	17%	37	17%	38	17%	38	17%
Finance	10	4%	10	4%	10	4%	10	4%
Hotels	1	0%	0	0%	1	0%	1	0%
Industrial Products	70	31%	70	31%	69	30%	70	31%
IPC	2	1%	1	0%	1	0%	2	1%
Mining	0	0%	0	0%	0	0%	0	0%
Plantations	12	6%	12	6%	13	6%	12	6%
Properties	27	12%	25	11%	27	12%	27	12%
REITS	5	2%	5	2%	5	2%	5	2%
SPAC	1	0%	1	0%	1	0%	1	0%
Trading/ Services	55	25%	56	25%	56	25%	55	25%
Total	221	99%	217	97%	221	99%	221	99%

Table 5.8 shows that 99% of the companies under study reported the function of the board in the year 2012, 2014 and 2015. However, this figure went down to 97 % in 2013. R3 highlighted that such practice was “...to protect and enhance shareholders value and the Group’s financial performance”.⁵⁸² Likewise, R81 believed that monitoring performance is one of the solutions to comply with CG. He said, “The Board is fully responsible for the overall performance of the Group. It provides stewardship to the Group’s strategic direction and operations to enhance shareholders’ value”.⁵⁸³ Since investors should be aware of the important information of the companies’ performance during the financial year, R148 stated that,

⁵⁸² Emico Holdings Berhad. “Annual report.” (2014). P20.

⁵⁸³ V.S. Industry Berhad, “Annual report.” (2014). P27.

“The Company is committed to ensuring that communications to the investing public regarding the business, operations and financial performance of the Company are accurate, timely, factual, informative...”.⁵⁸⁴

Furthermore, several companies disclosed their financial performance in a wider way. On this score, R150 stressed that “The Board recognises the importance of timely, complete, accurate and equal dissemination of information about the Company and the Group’s...”.⁵⁸⁵ A company’s reporting of the function of the board in implementing CG performance is an indication of whether the business is properly managed or not⁵⁸⁶. As IR1 emphasised, “...*effective management comes from the board and the code of good governance part of it if you talk about duties of the board, duties of the directors then the other part would be the investors*”⁵⁸⁷.

5.2.9 The Board Responsible to Disclose Information in Annual Report

Recommendation 7.1 of MCCG states that the right and responsibility of the board of directors is to disclose information to the public, to monitor, supervise, and develop the disclosure policy.⁵⁸⁸ For the board to be effective, companies should have stewards and guardians, not just in setting strategic direction and overseeing the conduct of business, but also in ensuring that the company conducts itself in compliance with laws and ethical values, and maintains an effective governance

⁵⁸⁴ Titijaya Land Berhad. “Annual report.” (2014). P32.

⁵⁸⁵ Bimb Holdings Berhad. “Annual report.” (2014). P66.

⁵⁸⁶ Salin, Ahmad Saiful Azlin Puteh, and Rashidah Abdul Rahman. "Disclosure of Board Committees by Malaysian Public Listed Companies." (2010).

⁵⁸⁷ Aishah Bidin, Companies Commission of Malaysia, interview by author, UKM, Kajang, Selangor, Malaysia, October 21, 2016.

⁵⁸⁸ Nazli Nik Ahmad, Nik, and Maliah Sulaiman. "Environment disclosure in Malaysia annual reports: a legitimacy theory perspective". *International Journal of Commerce and Management* 14, no. 1 (2004): 44-58.

structure to ensure the appropriate management of risks and level of internal controls.⁵⁸⁹

Table 5.9

Board Responsibility to Disclose Information

Year	2012		2013		2014		2015	
	R	UR	R	UR	R	UR	R	UR
Sectors	No	%	No	%	No	%	No	%
Closed-End funds	0	0%	0	0%	0	0%	0	0%
Consumer Products	38	17%	38	17%	38	17%	38	17%
Finance	10	4%	9	4%	10	4%	10	4%
Hotels	1	0%	1	0%	0	0%	1	0%
Industrial Products	68	30%	68	30%	70	31%	68	30%
IPC	2	1%	0	0%	2	1%	2	1%
Mining	0	0%	0	0%	0	0%	0	0%
Plantations	13	6%	12	5%	12	5%	13	6%
Properties	27	12%	27	12%	25	11%	27	12%
REITS	5	2%	2	1%	4	2%	5	2%
SPAC	1	0%	1	0%	1	0%	1	0%
Trading/ Services	56	25%	54	24%	56	25%	56	25%
Total	221	99%	212	95%	218	98%	221	99%

Table 5.9 shows that almost 99% of the companies under study used annual report as the main source of disclosure of information. As stressed by R5, “The Annual Report remains a key channel of communication with the stakeholders of the Group. It contains the financial and operational review of the business of the Group, corporate information...”.⁵⁹⁰ Others indicated were more specific about how the information was reported in the annual report, as noted by R44: “The disclosure will be made in

⁵⁸⁹ MCCG, 2012.

⁵⁹⁰ Goldis Berhad. “Annual report.” (2014). P22.

the annual report with the breakdown of the aggregate value of the transactions conducted pursuant to the mandate during the financial year”.⁵⁹¹

The responsibility of the directors for preparing the financial statement in the annual report, this was stated by R69,

“Directors are legally responsible for preparing financial statements for each financial year which give a true and fair view of the state of affairs of the Group and the Company at the end of the financial year”.⁵⁹²

Also, some respondents remarked that the responsibility of the directors was wider than simply disclosing the information in the annual report, as R221 stressed,

“The directors... responsible for ensuring that all appointments are properly made and all necessary information is obtained from directors, both for the Group’s records and to comply with the requirements of the Companies Act 1965, BMSB’s Main Market Listing Requirements and other regulatory requirements”.⁵⁹³

The finding showed that the board responsibility of disclosing material information is a prerequisite for ascertaining that companies conduct their operations in compliance with the framework of effective CG structure. According to Alnaser (2014), effective CG structure improves investor confidence. It also ensures corporate accountability, enhances the reliability and quality of public financial information, and enhances the

⁵⁹¹ Syarikat Takaful Malaysia Berhad. “Annual report”. (2015). P3.

⁵⁹² Lafarge Malaysia Berhad. “Annual report.” (2014). P26.

⁵⁹³ Insas Berhad. “Annual report.” (2014). P24.

integrity and efficiency of the capital market⁵⁹⁴. On this note, IR2 emphasised that *“the Board is responsible for disclosing information through the annual financial statements, quarterly and half yearly announcement of results to shareholders to improve the company performance”*.⁵⁹⁵

5.2.10 Ensure Appropriate Disclosure Policies

The board should ensure that the company adopts appropriate policies and procedures “such as “appropriate announcement, consequences and remedial actions, confidentiality and market reputation” for the accuracy of its financial information to the regulators and shareholders.⁵⁹⁶ The board may delegate this function to the audit committee, which will review the company’s annual and quarterly financial statements, management’s discussion and analysis and meet with the internal and external auditors and actuaries to discuss such statements. The audit committee will approve or make recommendations to the board for its approval of such statements and returns. The audit committee may also review and approve press releases containing previously undisclosed financial information.⁵⁹⁷

⁵⁹⁴ Alnaser, Nabil, Osama Samih Shaban, and Ziad Al-Zubi. "The effect of effective corporate governance structure in improving investors' confidence in the public financial information." *International Journal of Academic Research in Business and Social Sciences* 4, no. 1 (2014): 556.

⁵⁹⁵ Kelly Kheng, Securities Commission of Malaysia, e-mail message to author, December 8, 2016.

⁵⁹⁶ Recommendation 7.1 of the MCCG

⁵⁹⁷ Intact Financial Corporation, “Mandate of the Board of Directors Intact Financial Corporation and its P&C insurance companies”. *Final Approval by the Board of Directors of Intact Financial Corporation and its P&C Subsidiaries* on July 30, (2013). Available at : <http://www.intactfc.com/English/corporate-governance/mandate-of-the-board-ofdirectors/default.aspx>

Table 5.10

Appropriate Disclosure Policies

Year	2012		2013		2014		2015	
	R	UR	R	UR	R	UR	R	UR
Sectors	No	%	No	%	No	%	No	%
Closed-End funds	0	0%	0	0%	0	0%	0	0%
Consumer Products	38	17%	0	0%	38	17%	38	17%
Finance	10	4%	0	0%	10	4%	10	4%
Hotels	1	0%	0	0%	1	0%	1	0%
Industrial Products	67	30%	3	1%	68	30%	69	31%
IPC	2	1%	1	0%	2	1%	2	1%
Mining	0	0%	0	0%	0	0%	0	0%
Plantations	12	5%	1	0%	12	5%	13	6%
Properties	25	11%	2	1%	25	11%	26	12%
REITS	5	2%	4	2%	5	2%	4	2%
SPAC	1	0%	1	0%	1	0%	1	0%
Trading/ Services	55	25%	1	0%	55	25%	56	25%
Total	216	97%	7	3%	214	96%	220	99%

Table 5.10 shows that 216 (97%) companies in the year 2012 took appropriate corporate disclosure policies and procedures. R48 remarked, “The Board...ensures broad dissemination of material information in a comprehensive, accurate and timely manner and in accordance with all applicable legal and regulatory requirements”.⁵⁹⁸ Likewise, R81 indicated that “The Board ... ensures that the financial statements of the Group and the Company give a true and fair view of the state of affairs of the Group and the Company”.⁵⁹⁹ Moreover, the companies are required to provide timely, accurate, consistent, complete and fair public disclosure of information to enable investors to make informed and orderly market decisions. On this R106 pointed out that

⁵⁹⁸ Homeritz Corporation Berhad. “Annual report.” (2014). P15.

⁵⁹⁹ V.S. Industry Berhad. “Annual report.” (2014). P31.

“The Group is committed to providing accurate, timely, consistent and fair disclosure of corporate information to enable informed and orderly market decisions as well as compliance with the Listing Requirements and Corporate Governance Guide issued by Bursa Malaysia Securities Berhad”.⁶⁰⁰

Also, R116 highlighted that the company had appropriate disclosure policies relating to the audit; “...all information relevant to the Group audit has been provided to the Directors, and that reasonable steps have been taken to ensure full disclosure in response to requests for information from the external auditor”.⁶⁰¹

By adopting appropriate corporate disclosure policies, companies assure the accuracy of their financial statements, timely reporting, and disclosure of financial information to regulators and shareholders⁶⁰². On why some companies did not report adopting corporate disclosure policies, IR1 related that “*I am sure they would have some policy relating to this, but this is I think for the companies to review that you know disclosure practice*”⁶⁰³. Also, IR2 stated that “*In my experience and from the law itself I could say that board is responsible for ensuring that the company complies with all applicable corporate disclosure laws and regulations*”.⁶⁰⁴

⁶⁰⁰ Choo Bee Metal Industries Bhd. “Annual report.” (2015). P25.

⁶⁰¹ British American Tobacco (Malaysia) Berhad. “Annual report.” (2014). P69.

⁶⁰² Healy, Paul M., and Krishna G. Palepu. “Information asymmetry, corporate disclosure, and the capital markets: A review of the empirical disclosure literature.” *Journal of accounting and economics* 31, no. 1-3 (2001): 405-440.

⁶⁰³ Aishah Bidin, Companies Commission of Malaysia, interview by author, UKM, Kajang, Selangor, Malaysia, October 21, 2016.

⁶⁰⁴ Kelly Kheng, Securities Commission of Malaysia, e-mail message to author, December 8, 2016.

5.2.11 Disclose Personal Interest to the Company

Personal interest is not defined in the MCCG. However, Personal interest has been defined as “the interest that individuals pay on personal and consumer loans. It is the cost charged to personal loan borrowers for the privilege of using money provided by the lender. Interest on personal loans may be tax deductible or non-deductible depending on the type of loan”⁶⁰⁵. The materiality of interest depends on the circumstances of each case and is a matter of judgment for the director to determine, having regarded both, what is material to the company and what is material to the director.⁶⁰⁶ Where a conflict of interest exists, ‘material’ can be interpreted to mean the matter has ‘a capacity to influence the vote of a particular director on the decision to be made’. The material personal interest need not be a subject of a conflict of interest at the time of disclosure. However, directors are required under the MCCG, BMLR and, as a general rule, the company’s constitution, to make various disclosures about their interests to the board during the meeting.⁶⁰⁷

Table 5.11

Disclose Personal Interest to the Company

Year	2012		2013		2014		2015	
	R	UR	R	UR	R	UR	R	UR
Sectors	No	%	No	%	No	%	No	%
Closed-End funds	0	0%	0	0%	0	0%	0	0%
Consumer Products	38	17%	0	0%	36	16%	2	1%
Finance	10	4%	0	0%	10	4%	0	0%
Hotels	1	0%	0	0%	1	0%	0	0%
Industrial Products	67	30%	3	1%	68	30%	2	1%

⁶⁰⁵ <https://www.investopedia.com/terms/p/personal-interest.asp>

⁶⁰⁶ Governance Institute of Australia, “ The Good Governance Guides indicate, in the view of Governance Institute of Australia Ltd, one interpretation of good practice ”. (2014). Available at: https://www.governanceinstitute.com.au/media/365394/gggissues-to-consider_material-personal_interests.pdf

⁶⁰⁷ Ibid

IPC	2 1%	0 0%	2 1%	0 0%	2 1%	0 0%	2 1%	0 0%
Mining	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Plantations	12 5%	1 0%	12 5%	1 0%	12 5%	1 0%	13 6%	0 0%
Properties	25 11%	2 1%	25 11%	2 1%	25 11%	2 1%	26 12%	1 0%
REITS	3 1%	2 1%	4 2%	1 0%	5 2%	0 0%	4 2%	1 0%
SPAC	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%
Trading/ Services	53 24%	3 1%	54 24%	2 1%	55 25%	1 0%	56 25%	0 0%
Total	212 95%	11 5%	213 95%	10 5%	218 98%	5 2%	221 99%	2 1%

Table 5.11 shows that only 11 (5%) companies in 2012 did not report personal interest while 212 (95%) did so. The figure went up till 221 (99%) in 2015. In this regard, R76 highlighted that “...the interests of the directors holding office at the end of the financial year in shares of the Company and its related corporations during the financial year are as follows”.⁶⁰⁸ Also, R60 admitted that “...the interests of directors in office at the end of the financial year in shares in the Company and its related corporations during the financial year are as follows”.⁶⁰⁹ Similarly, R165 stressed that “The following Directors of the Manager who held office at the end of the financial year had, according to the register of unit holdings in YTL Hospitality REIT, interests in the units of YTL Hospitality REIT as follows”.⁶¹⁰

Interestingly, it can be noted that only several companies did not report personal interest although they disclosed the interests of the directors in the reporting financial year, which was usually done to avoid issues that may arise from a conflict of interest. This became clear by the interview with IR2 who stated that “*Yes, all the*

⁶⁰⁸ Timberwell Berhad. “Annual report.” (2014). P42.

⁶⁰⁹ Chin Well Holdings Berhad. “Annual report.” (4014). P25.

⁶¹⁰ YTL Hospitality Reit. “Annual report.” (2014). P62.

*directors of the companies who listed in BM must under the Companies Act to disclose their personal interest at the end of each financial year”.*⁶¹¹

5.3 The Law of Disclosure

In this section 9 items analyses and reports the law of disclosure of PLCs in annual reports, which are as follow.

5.3.1 Furnish Necessary Information of any Share Acquired or Held

The MCCG in recommendation 1.5 indicates that any company, person or individual must furnish all the necessary information of any share acquired or held directly or indirectly either for his benefit or others by notice in writing.⁶¹² Table 5.12 displays the percentage of companies that disclosed necessary information of any shares acquired or held.

Table 5.12

Furnish Necessary Information of Shares

Year	2012		2013		2014		2015	
	R	UR	R	UR	R	UR	R	UR
Sectors	No	%	No	%	No	%	No	%
Closed-End funds	0	0%	0	0%	0	0%	0	0%
Consumer Products	38	17%	38	17%	38	17%	38	17%
Finance	10	4%	10	4%	10	4%	10	4%
Hotels	1	0%	1	0%	1	0%	1	0%
Industrial Products	70	31%	70	31%	70	31%	70	31%
IPC	2	1%	2	1%	2	1%	2	1%
Mining	0	0%	0	0%	0	0%	0	0%
Plantations	13	6%	13	6%	13	6%	13	6%
Properties	27	12%	27	12%	27	12%	27	12%
REITS	5	2%	5	2%	5	2%	5	2%

⁶¹¹ Kelly Kheng, Securities Commission of Malaysia, e-mail message to author, December 8, 2016.

⁶¹² Section 584 of Companies Act, 2016.

SPAC	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%
Trading/ Services	56 25%	0 0%	56 25%	0 0%	56 25%	0 0%	56 25%	0 0%
Total	223 100%	0 0%	223 100%	0 0%	223 100%	0 0%	223 100%	0 0%

Table 5.12 shows that during the four years all the companies (223) reported the necessary information about shares acquired or held during their financial years as set out in paragraph 9.02 of BMLR. According to Hwa (2004)⁶¹³. PLCs are required to maintain high standards of governance as well as to enhance corporate credibility and investor confidence. As reported by R1,

“Dato’ Ding...have interest in the shares held by the Company in its subsidiaries by virtue of their substantial interest in shares of the Company. None of the other Directors held any share whether direct or indirect”.⁶¹⁴

Also, R26 provided the necessary information of shares acquired or held through the company “...the Group acquired all redeemable preference shares (RPS) held by the then minority shareholder of Kesturi. After that, RPS issued by Kesturi are wholly held by a wholly-owned subsidiary of the Company”.⁶¹⁵ In the same vein, R32 showed that the company should provide information relating to any gain or loss “...equity interests in the acquire are remeasured to fair value at the acquisition date, and any corresponding gain or loss is recognised in profit or loss”.⁶¹⁶ Moreover, some companies furnished clearly the necessary information of the share to the public in the financial year, as highlighted on R114,

⁶¹³ Hwa, Ting Kien. "Corporate Real Estate Activities of Listed Companies: Disclosures, Announcements and Listing Requirements." (2004).

⁶¹⁴ D.B.E. Gurney Resources Berhad. "Annual report." (2014). P31.

⁶¹⁵ Ekovest Berhad. "Annual report." (2014). P86.

⁶¹⁶ Boilermach Holdings Berhad. "Annual report." (2014). P59.

“During the financial year, the Company did not purchase its own ordinary shares. As of 31 December 2015, the Company held 101,000 treasury shares at a carrying amount of RM91, 253. Movement in the Company’s treasury shares are as disclosed in Note 28 to the Financial Statements.”⁶¹⁷

However, the results show that most of the companies reported necessary information of shares acquired or held during their financial, as set out in Paragraph 9.02 of BMLR. The interview with IR1 indicated that “*Members of PLCS must disclose information about porches, shares and any substantial shareholders structure in the company*”⁶¹⁸. Moreover, IR2 stressed that “*the directors of the companies must disclose information of any share acquired or held at the end of the financial year*”.⁶¹⁹

5.3.2 Members should Inform the Company of Holds any Voting Shares

CA 2016 stated in section 56 (1) that members of companies may inform the company whether the member holds any voting shares in the company as beneficial owner or as trustee. The MCCG specifies that the board is encouraged to put substantive resolutions to vote by poll and make an announcement of the detailed results showing the number of votes cast for and against each resolution. Companies are encouraged to employ electronic means for poll voting. Also, the chairman should inform shareholders of their right to demand a poll vote at the commencement of the general meeting and that voting could be electronic voting to facilitate greater

⁶¹⁷ Eversendai Corporation Berhad. “Annual report.” (2015). P71.

⁶¹⁸ Aishah Bidin, Companies Commission of Malaysia, interview by author, UKM, Kajang, Selangor, Malaysia, October 21, 2016.

⁶¹⁹ Kelly Kheng, Securities Commission of Malaysia, e-mail message to author, December 8, (2016).

shareholder participation.⁶²⁰ Table 5.13 highlights the members of PLCs that held voting shares from 2012 until 2015.

Table 5.13

Holds any Voting Shares

Year	2012		2013		2014		2015	
	R	UR	R	UR	R	UR	R	UR
Sectors	No	%	No	%	No	%	No	%
Closed-End funds	0	0%	0	0%	0	0%	0	0%
Consumer Products	38	17%	0	0%	38	17%	0	0%
Finance	9	4%	1	0%	10	4%	0	0%
Hotels	1	0%	0	0%	1	0%	0	0%
Industrial Products	67	30%	3	1%	68	30%	2	1%
IPC	2	1%	0	0%	2	1%	0	0%
Mining	0	0%	0	0%	0	0%	0	0%
Plantations	13	6%	0	0%	12	5%	1	0%
Properties	26	12%	1	0%	26	12%	1	0%
REITS	4	2%	5	2%	0	0%	4	2%
SPAC	1	0%	0	0%	1	0%	0	0%
Trading/ Services	56	25%	0	0%	55	25%	1	0%
Total	217	97%	6	3%	218	98%	5	2%

Table 5.13 shows that the majority of the selected companies (98%) reported the mode of hold voting shares during the four years (2012-2015). R47 reported that,

“The Board takes note of the recommendation by MCCG on the adoption of electronic voting and encourages poll voting to facilitate greater shareholder participation and inform shareholders of their right to demand a poll...”.⁶²¹

Likewise, the member shall inform the company at the general meeting whether he holds any voting share. R171 stated that “...The Chairman may demand a poll for

⁶²⁰ Recommendation, 8.2 of the MCCG.

⁶²¹ Affin Holdings Berhad. “Annual report.” (2014). P47.

any substantive resolutions put forward for voting at the shareholders' meetings, if so required".⁶²² However, several annual reports disclosed that none of the members holds any voting shares during the year either directly or indirectly. R201 highlighted that;

“Save for the proportionate increase in the percentage shareholdings and voting rights of all the shareholders in the Company as a consequence of the Proposed Share Buy-Back, none of the Directors and Substantial Shareholders and persons connected to them have any interest, direct or indirect”.⁶²³

Also, the company could have voting rights less than the majority of an investee. R112 noted that,

“When the Company has less than a majority of the voting rights of an investee, it has power over the investee when the voting rights are sufficient to give it the practical ability to direct the relevant activities of the investee unilaterally...”.⁶²⁴

In sum, most of the companies' members reported holding voting shares as indicated in section 148(1) of CA2016 that “every member shall have a right to attend any general meeting of the company and to speak and vote thereat”. Fan and Wong (2002)⁶²⁵ categorised three types of property rights arising from ownership in PLCs: right to deploy corporate assets (control or voting right); right to receive income (cash flow right), and right to transfer shares to another shareholder (transfer both control and cash flow right).

⁶²² Berjaya Sports Toto Berhad. “Annual report.” (2014). P36.

⁶²³ Insas Berhad. “Annual report.” (2014). P161.

⁶²⁴ Woodlandor Holdings Bhd. “Annual report.” (2014). P42.

⁶²⁵ Fan, Joseph PH, and Tak Jun Wong. "Corporate ownership structure and the informativeness of accounting earnings in East Asia." *Journal of accounting and economics* 33, no. 3 (2002): 401-425.

5.3.3 Disclose the Nature of the Interest

The CA indicates in section 221 (1) that every director in any way, whether directly or indirectly, interested in a contract or proposed contract with the company shall, as soon as practicable after the relevant facts have come to his knowledge, declare the nature of his interest at a meeting of the directors of the company.⁶²⁶

Table 5.14

Disclose the Interest in Contracts

Year	2012		2013		2014		2015	
Sectors	R No %	UR No %	R No %	UR No %	R No %	UR No %	R No %	UR No %
Closed-End funds	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Consumer Products	38 17%	0 0%	36 16%	2 1%	38 17%	0 0%	38 17%	0 0%
Finance	8 4%	2 1%	7 3%	3 1%	8 4%	2 1%	9 4%	1 0%
Hotels	1 0%	0 0%	1 0%	0 0%	0 0%	1 0%	1 0%	0 0%
Industrial Products	67 30%	3 1%	68 30%	2 1%	70 31%	0 0%	70 31%	0 0%
IPC	2 1%	0 0%	2 1%	0 0%	2 1%	0 0%	2 1%	0 0%
Mining	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Plantations	12 5%	1 0%	12 5%	1 0%	13 5%	0 0%	12 5%	1 0%
Properties	27 12%	0 0%	26 12%	1 0%	26 12%	1 0%	27 12%	0 0%
REITS	5 2%	0 0%	5 2%	0 0%	4 2%	1 0%	5 2%	0 0%
SPAC	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%
Trading/ Services	54 24%	2 1%	56 25%	0 0%	54 24%	2 1%	54 24%	2 1%
Total	215 96%	8 4%	214 96%	9 4%	216 97%	7 3%	219 98%	4 2%

Table 5.14 shows that most of the companies reported disclosure of the interest in contracts while 7 (3%) of the companies in 2014 and 4% in 2012, 2013 and 2015 did not disclose the interest in contracts. The directors are required to disclose the nature and extent of their interest. They must do so either in writing to the company or by requesting that in the meetings of directors. R177 stated that,

⁶²⁶ Section 221 of the Companies Act, (016.

“There were no material contracts subsisting at the end of the financial year or entered into since the end of the previous financial year, by the Company or its subsidiaries, which involved the interest of the Director and major shareholders other than contracts entered into in the normal course of business”.⁶²⁷

Moreover, R20 stated that, “There were no material contracts by the Group and its subsidiaries involving Directors’ and substantial shareholders’ interest”.⁶²⁸ R22 showed that “There were no material contracts entered into by the Company and its subsidiaries that involve Directors’ or substantial shareholders’ interests either still subsisting at the end of the financial year...”.⁶²⁹

In conclusion, the analysis shows that most of the selected companies declare the nature of his interest at a meeting of the directors of the company⁶³⁰. Failure to disclose may result in a fine of five years or three million ringgit or both⁶³¹. The interview with IR1, stressed that “*Yes, it’s a requirement under the law, section 131-135 issue provision in the disclosure of Companies Act 1965, so yes you must disclose*”⁶³². Furthermore, the interview with IR2 indicated that “*Yes, the members of the companies must disclose the nature of their interest at the end of the year*”.⁶³³

⁶²⁷ Transocean Holdings Bhd. “Annual report.” (2015). P12.

⁶²⁸ Bio Osmo Berhad. “Annual report”. (2014). P16.

⁶²⁹ Paragon Union Berhad. “Annual report.” (2014). P22.

⁶³⁰ Leong, Ho Khai, ed. Reforming corporate governance in Southeast Asia: economics, politics, and regulations. Institute of Southeast Asian Studies, 2005.

⁶³¹ Section 221 (12) of companies act (2016).

⁶³² Aishah Bidin, Companies Commission of Malaysia, interview by author, UKM, Kajang, Selangor, Malaysia, October 21, 2016.

⁶³³ Kelly Kheng, Securities Commission of Malaysia, e-mail message to author, December 8, 2016.

5.3.4 Directors Exercising their Duties Depend on information made by Professional Adviser

Section 215 (1) of CA 2016 stipulates that a director may, when exercising powers or performing duties as a director, rely on reports, statements, financial data and other information prepared or supplied, and on professional or expert advice given, by a reliable and competent employee, a professional adviser or an expert and any other director or any committee of directors upon which the director did not serve.⁶³⁴

Table 5.15

Information by professional adviser

Year	2012		2013		2014		2015	
Sectors	R No %	UR No %	R No %	UR No %	R No %	UR No %	R No %	UR No %
Closed-End funds	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Consumer Products	38 17%	0 0%	38 17%	0 0%	38 17%	0 0%	38 17%	0 0%
Finance	10 4%	0 0%	7 3%	3 1%	10 4%	0 0%	10 4%	0 0%
Hotels	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%
Industrial Products	68 30%	2 1%	68 30%	2 1%	69 31%	1 0%	69 31%	1 0%
IPC	2 1%	0 0%	1 0%	1 0%	2 1%	0 0%	2 1%	0 0%
Mining	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Plantations	12 5%	1 0%	11 5%	2 1%	13 6%	0 0%	13 6%	0 0%
Properties	27 12%	0 0%	27 12%	0 0%	27 12%	0 0%	27 12%	0 0%
REITS	5 2%	0 0%	5 2%	0 0%	4 2%	1 0%	4 2%	1 0%
SPAC	1 0%	0 0%	0 0%	1 0%	1 0%	0 0%	1 0%	0 0%
Trading/ Services	55 25%	1 0%	49 22%	7 3%	56 25%	0 0%	56 25%	0 0%
Total	219 98%	4 2%	207 93%	16 7%	221 99%	2 1%	221 99%	2 1%

As described in Table 5.15, almost 99% of the companies in 2012, 2014 and 2015 reported the mode of information by professional adviser while in 2013 the number of the companies went down to 207 (93%). In this context, R43 stated that “All

⁶³⁴ Section 215 of the Companies Act, 2016.

Directors...may seek independent professional advice at the Company's expense, if required, in furtherance of their duties".⁶³⁵ Also, the directors could exercise their duties as a full board or as an individual. R116 highlighted that

“There is also a formal procedure approved by the Board for all Directors, whether acting as a full Board or in their individual capacity, to obtain independent professional advice when necessary, at the Company's expense”.⁶³⁶

Moreover, some companies offered an independent professional advice to exercise their duties. R81 reported that “All Directors...to obtain independent professional advice in furtherance of their duties at the Group's expense, if required”.⁶³⁷ Also, R186 stated that the board could point independent professional, “the Directors may engage independent professionals at the Group's expense on specialised issues to enable the Board to discharge its duties with adequate knowledge on the matters being deliberated”.⁶³⁸

IR1 remarked that *“It is not required under the law whether they have to consult the professional. However, the law says you must disclose any information if you felt that conflicting interest”*⁶³⁹. IR2 further stated that *“I don't think so since that is not compulsory but if this type of information could conflict the interest then they have to disclose”*⁶⁴⁰. It can be concluded that for the professional adviser to practice his duty correctly, he should be careful to disclose any material information that could

⁶³⁵ Bimb Holdings Berhad. “Annual report.” (2014). P59.

⁶³⁶ British American Tobacco (Malaysia) Berhad. “Annual report.” (2014). P52.

⁶³⁷ V.S. Industry Berhad. “Annual report.” (2014). P30.

⁶³⁸ Cypark Resources Berhad. “Annual report.” (2014). P28.

⁶³⁹ Aishah Bidin, Companies Commission of Malaysia, interview by author, UKM, Kajang, Selangor, Malaysia, October 21, 2016.

⁶⁴⁰ Kelly Kheng, Securities Commission of Malaysia, e-mail message to author, December 8, 2016.

conflict the interest and must not abuse the trust and confidence placed on them⁶⁴¹. In this regard, the law in Malaysia must indicate whether the directors are required to exercise their duties professionally and compulsorily.

5.3.5 Directors Offer Notice in Writing of Shares, Debentures

The CA 2016 in section 8 (6) states that no person should be recognized by the company as holding any share upon any trust, and the company shall not be bound by or be compelled in any way to recognize any equitable, contingent, future, or partial interest in any share or unit of a share or any other rights in respect of any share except an absolute right to the entirety thereof in the registered holder.⁶⁴²

Table 5.16

Offer Notice of Shares and Debentures

Year	2012		2013		2014		2015	
	R	UR	R	UR	R	UR	R	UR
Sectors	No %	No %	No %	No %	No %	No %	No %	No %
Closed-End funds	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Consumer Products	38 17%	0 0%	38 17%	0 0%	38 17%	0 0%	38 17%	0 0%
Finance	10 4%	0 0%	10 4%	0 0%	10 4%	0 0%	10 4%	0 0%
Hotels	1 0%	0 0%	0 0%	1 0%	1 0%	0 0%	0 0%	1 0%
Industrial Products	68 30%	2 1%	69 31%	1 0%	68 30%	2 1%	69 31%	1 0%
IPC	2 1%	0 0%	2 1%	0 0%	2 1%	0 0%	2 1%	0 0%
Mining	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Plantations	13 6%	0 0%	13 6%	0 0%	13 6%	0 0%	13 6%	0 0%
Properties	26 12%	1 0%	27 12%	0 0%	26 12%	1 0%	27 12%	0 0%
REITS	4 2%	1 0%	5 2%	0 0%	4 2%	1 0%	5 2%	0 0%
SPAC	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%
Trading/ Services	56 25%	0 0%	53 24%	3 1%	55 25%	1 0%	53 24%	3 1%
Total	219 98%	4 2%	219 98%	4 2%	217 97%	6 3%	219 98%	4 2%

⁶⁴¹ Mohd Ali, M. "Corporate risk disclosure, upper management characteristics, ownership structure and firm value: Malaysian evidence." (2013).

⁶⁴² Sections 287 of the Companies Act, 2016.

Table 5.16 shows the results of offer notice in shares and debentures. It also shows that the majority of the companies (almost 98%) offered notice in shares and debentures during the financial year between 2012 and 2015 while only around 2% of the companies did not report whether the directors usually offered a notice of any share of debenture if they held any. R92 stated that,

“During the financial period there were no changes in the authorised share capital of the Company; the Company increased its issued and paid-up share capital from RM138,081,114 to RM138,081,764 by the issuance of 3,250 new ordinary shares of RM0.20 each pursuant to the Company’s employee share option scheme at an exercise price of RM0.30 per ordinary share”.⁶⁴³

Furthermore, R21 witnessed that “There were no changes in the authorised issued and paid-up capital of the Company during the financial year. There were no debentures issued during the financial year”.⁶⁴⁴ Thus, with regards to the issue of debentures and share, a huge number of the companies stated that they did not issue any new shares or debentures during the financial year. R31 reported that “The Company has not issued any new shares or debentures during the financial year”.⁶⁴⁵ Also, R160 stressed that “The directors who held office at the end of the financial year did not hold any interest in shares in, or debentures of, the Company and its related corporations during the financial year”.⁶⁴⁶

In sum, the majority of the companies under the study offered notice of the shares and debentures to the general public to enable the public to make accurate investment

⁶⁴³ Green Packet Berhad. “Annual report.” (2014). P47.

⁶⁴⁴ Upa Corporation Bhd. “Annual report.” (2014). P22.

⁶⁴⁵ Sin Heng Chan (Malaya) Berhad. “Annual report.” (2014). P20.

⁶⁴⁶ Yli Holdings Berhad. “Annual report.” (2014). P34.

decisions. The interview with IR1 confirmed that “*if the provision says that the PLCs must submit they must submit and of course that is the task in which the directors own the obligation*”⁶⁴⁷.

5.3.6 Prompt Disclosure of Unfavorable Material Information

The SC 1993 in section 152 has reminded issuers of their responsibility to make full and prompt disclosure of material facts, where management knows or has reason to know its earlier statements no longer have a reasonable basis. In regards of that, several companies have promoted unfavorable material information.⁶⁴⁸

Table 5.17

Unfavorable Material Information

Year	2012		2013		2014		2015	
	R	UR	R	UR	R	UR	R	UR
Sectors	No %	No %	No %	No %	No %	No %	No %	No %
Closed-End funds	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Consumer Products	38 17%	0 0%	33 17%	5 0%	38 17%	0 0%	38 17%	0 0%
Finance	10 4%	0 0%	9 4%	1 0%	10 4%	0 0%	10 4%	0 0%
Hotels	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%
Industrial Products	68 30%	2 1%	66 30%	4 1%	68 30%	2 1%	70 31%	0 0%
IPC	2 1%	0 0%	2 1%	0 0%	2 1%	0 0%	2 1%	0 0%
Mining	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Plantations	12 5%	1 0%	12 5%	1 0%	12 5%	1 0%	12 5%	1 0%
Properties	26 12%	1 0%	27 12%	0 0%	26 12%	1 0%	26 12%	1 0%
REITS	5 2%	0 0%	4 2%	1 0%	5 2%	0 0%	5 2%	0 0%
SPAC	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%
Trading/ Services	54 24%	2 1%	54 24%	2 1%	54 24%	2 1%	56 25%	0 0%
Total	217 97%	6 3%	209 94%	14 6%	217 97%	6 3%	221 99%	2 1%

⁶⁴⁷ Aishah Bidin, Companies Commission of Malaysia, interview by author, UKM, Kajang, Selangor, Malaysia, October 21, 2016.

⁶⁴⁸ Steinberg, Marc I. “Securities Regulation: Liabilities and Remedies”. *Law Journal Press*, (2014).

Table 5.17 shows the number of the companies that reported unfavourable material information. In 2013, 94% in 2013 reported unfavourable material information. More companies (97%) did so in 2012, 2014 and 2015. In this perspective, R18 indicated that “The Board acknowledges the importance of timely and equal dissemination of material information to the shareholders, investors and public at large”⁶⁴⁹. R114 highlighted that the company should provide disclosure policies to enable shareholders and investors to make their decisions. “The Group...comprehensive, accurate, balanced, clear and timely disclosure of material information to enable informed and orderly decisions by the shareholders and investors”.⁶⁵⁰ Various companies disclosed such kind of material information through annual reports, announcements, quarterly reports, and the Company’s website. R111 stressed that “the Group’s performance, business activities, financial performance, material information and corporate events through the Annual Report, formal announcements, quarterly reports...”.⁶⁵¹ A similar response was given by R168; “Information is disseminated via annual reports, circulars to shareholders, press releases, half yearly financial results and various announcements made from time to time to Bursa Malaysia”.⁶⁵²

In sum, the above result shows that a high number of the companies reported unfavourable material information. Grossman (1981)⁶⁵³ posited that companies have incentives to disclose all information. Day (2001)⁶⁵⁴ showed that in a voluntary

⁶⁴⁹ V.S. Industry Berhad. “Annual report.” (2014). P32.

⁶⁵⁰ Eversendai Corporation Berhad. “Annual report.” (2014). P58.

⁶⁵¹ Ho Wah Genting Berhad. “Annual report.” (2015). P25.

⁶⁵² Cliq Energy Berhad. “Annual report.” (2014). P42.

⁶⁵³ Grossman, Sanford J. "The informational role of warranties and private disclosure about product quality." *The Journal of Law and Economics* 24, no. 3 (1981): 461-483.

⁶⁵⁴ Dye, Ronald A. "An evaluation of “essays on disclosure” and the disclosure literature in accounting." *Journal of Accounting and Economics* 32, no. 1-3 (2001): 181-235.

environment companies would withhold unfavourable news. Deegan (2002)⁶⁵⁵ argued that leaving disclosure policies to managers leads to the disclosure of biased information that gives a positive impression of the company. In the interview, IR2 emphasised that “BMLR indicated that the board must disclose material information of any transaction or events to the investors for them to make their investment decisions”⁶⁵⁶

5.3.7 Confidential Matters

Confidential information can be defined as *"the information that any party desires to maintain as confidential or secret, which is supplied or provided to any other party, which could be expected to cause damage to the marketplace"*.⁶⁵⁷ Different types of confidential information include technical, business information, owned by or licensed to company and software, reports, memoranda, documents, developments, or other results produced by a supplier in the performance of providing supplies that are directly related to company's business and not primarily to general technology used by supplier in the conduct of its business.⁶⁵⁸

⁶⁵⁵ Deegan, Craig. "Introduction: The legitimizing effect of social and environmental disclosures—a theoretical foundation." *Accounting, Auditing & Accountability Journal* 15, no. 3 (2002): 282-311.

⁶⁵⁶ Kelly Kheng, Securities Commission of Malaysia, e-mail message to author, December 8, 2016.

⁶⁵⁷ Treadway, Brandy L. "Overview of Individual States' Application of Inevitable Disclosure: Concrete Doctrine or Equitable Tool, An". *SMUL Rev.* 55 (2002): 621.

⁶⁵⁸ Nowell, David, and Jean Spruill. "If it's not absolutely confidential, will information be disclosed?". *Professional Psychology: Research and Practice* 24, no. 3 (1993): 367.

Table 5.18

Confidential Matters

Year	2012		2013		2014		2015	
	R	UR	R	UR	R	UR	R	UR
Sectors	No %	No %	No %	No %	No %	No %	No %	No %
Closed-End funds	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
ConsumerProducts	33 15%	5 2%	34 15%	4 2%	36 16%	2 1%	36 16%	2 1%
Finance	5 2%	5 2%	6 3%	4 2%	8 4%	2 1%	10 4%	0 0%
Hotels	0 0%	1 0%	0 0%	1 0%	1 0%	0 0%	1 0%	0 0%
Industrial Products	26 12%	44 20%	31 14%	39 17%	37 17%	33 15%	40 18%	30 13%
IPC	1 0%	1 0%	2 1%	0 0%	2 1%	0 0%	1 0%	1 0%
Mining	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Plantations	7 3%	6 3%	7 3%	6 3%	9 4%	4 2%	7 3%	6 3%
Properties	12 5%	15 7%	15 7%	12 5%	14 6%	13 6%	18 8%	9 4%
REITS	1 0%	4 2%	1 0%	4 2%	3 1%	2 1%	5 2%	0 0%
SPAC	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%
Trading/ Services	30 13%	26 12%	34 15%	22 10%	37 17%	19 9%	36 16%	20 9%
Total	116 52%	107 48%	131 59%	92 41%	148 66%	75 34%	155 70%	68 30%

Table 5.18 shows no significant differences between the companies that reported confidentiality matters during the four years (2012-2015). The number of the companies that reported confidentiality matters were 116 (52%) in 2012. The figure went up to 155 (70%) in 2015. In this respect, R8 stated that “The Company recognises the value of transparent, consistent and coherent communications with investment community consistent with commercial confidentiality and regulatory considerations”.⁶⁵⁹ R223 pointed that “...information which is expected to be material must be announced immediately, and that the confidential information should be handled properly to avoid leakage and improper use of such information”.⁶⁶⁰ Several annual reports stated that confidential information matters should be protected from disclosure to maintain the relationship with the investors.

⁶⁵⁹ Khind Holdings Berhad. “Annual report.” (2014). P18.

⁶⁶⁰ Icapital.Biz Berhad. “Annual report.” (2014). P32.

R191 indicated that “The Group regards transparency, confidentiality and integrity as important business practices in building and maintaining long-term relationships with our stakeholders”.⁶⁶¹ Also, R181 disclosed that the information should handle accurately to avoid incorrect use of such material; “The Company has also put in place an internal control policy on confidentiality to ensure that confidential information is handled properly by Directors...”.⁶⁶²

In conclusion, the result shows that almost half of the companies did not report any confidential information because of probable abuse of such opportunities or the frivolities involved in the unauthorised use of confidential information. Section 9.08 (3) of BMLR indicates that “the listed issuer must ensure that the disclosure is restricted to only relevant persons and the strictest confidentiality is maintained”. It became clear from an interview with IR1 that “*..misusing the information given by the shareholders to the company is something a priority between the investors and the company, so the company can’t use it to submit to the third party that is a bridge contract*”⁶⁶³. Also, IR2 asserted that “*Every member of the company either directors, employees and others must ensure confidentiality information to avoid incorrect use of such information*”.⁶⁶⁴

5.3.8 Equal Access to Material Information

Recommendation 1.5 of the MCCG and section 320 (6) of CMSA 2007 specify that companies must disclose to the public all material information necessary for

⁶⁶¹ Denko Industrial Corporation Berhad. “Annual report.” (2014). P29.

⁶⁶² Seni Jaya Corporation Berhad. “Annual report.” (2014). P18.

⁶⁶³ Aishah Bidin, Companies Commission of Malaysia, interview by author, UKM, Kajang, Selangor, Malaysia, October 21, 2016.

⁶⁶⁴ Kelly Kheng, Securities Commission of Malaysia, e-mail message to author, December 8, 2016.

informed investment decisions and take reasonable steps to ensure that all who invest in the company's securities enjoy equal access to such information.

Table 5.19

Equal Access to Information

Year	2012		2013		2014		2015	
	R	UR	R	UR	R	UR	R	UR
Sectors	No	%	No	%	No	%	No	%
Closed-End funds	0	0%	0	0%	0	0%	0	0%
Consumer Products	38	17%	0	0%	38	17%	37	17%
Finance	10	4%	0	0%	10	4%	10	4%
Hotels	1	0%	0	0%	1	0%	0	0%
Industrial Products	63	28%	7	3%	66	30%	68	30%
IPC	2	1%	1	0%	1	0%	2	1%
Mining	0	0%	0	0%	0	0%	0	0%
Plantations	12	5%	1	0%	12	5%	13	6%
Properties	25	11%	2	1%	26	12%	26	12%
REITS	5	2%	0	0%	5	2%	5	2%
SPAC	1	0%	0	0%	1	0%	1	0%
Trading/ Services	54	24%	2	1%	56	25%	56	25%
Total	211	95%	12	5%	216	97%	218	98%

Table 5.19 shows that in 98% companies reported the mode of equal access to information in 2015 but only 95% did so in 2012. R26 reiterated that “The Directors have full and unrestricted access to all information about the Group’s business and affairs, including amongst others, major financial, operational...”.⁶⁶⁵ Also, R89 stressed that the board of each company working to guarantee that all who invest on it enjoy equal admission to the material data. “The Board will take reasonable steps

⁶⁶⁵ Ekovest Berhad. “Annual report.” (2014). P24.

to ensure that the public and investors all who invest in the Company's securities enjoy equal access to such information to avoid selective disclosure".⁶⁶⁶

Many annual reports studied offered an avenue to the shareholders of the company to access information. R105 reported that "The Board also provides an avenue to the shareholders of the Company to access information electronically via the Company's website at www.octagon.irplc.com".⁶⁶⁷ R157 stressed that "The Company's website provides all relevant information about the Company including its announcements and annual reports and is accessible by the public".⁶⁶⁸

In conclusion, the result shows that most of the companies ensured that the shareholders and general investors could obtain equal access to comprehensive, accurate and high-quality corporate information⁶⁶⁹ in line with section 9.02 of BMLR. In the interview, IR2 stated that "*companies maintain equal access to information by publishing online information through their website*".⁶⁷⁰

⁶⁶⁶ Thong Guan Industries Berhad. "Annual report." (2015). P15.

⁶⁶⁷ Octagon Consolidated. "Annual report." (2014). P28.

⁶⁶⁸ Maa Group Berhad. "Annual report." (2014). P38.

⁶⁶⁹ Ghani, Erlane K., and Nur Azrin Mat Tarmezi. "The Effect of Corporate Disclosure Guide on Information Disclosure among Malaysian Public Listed Companies." *International Journal of Academic Research in Business and Social Sciences* 6, no. 9 (2016): 362-376.

⁶⁷⁰ Aishah Bidin, Companies Commission of Malaysia, interview by author, UKM, Kajang, Selangor, Malaysia, October 21, 2016.

5.3.9 Ensure Security Measures to Protect Information and Documents

MCCG in Recommendation 8.3 indicates that the board of directors needs to be objective and proactive in its policies and dealings with management to ensure that the management is generating shareholder. Also, the board should ensure that they would make every effort to promote and protect investor interests to protect a company from mismanagement and weak employee productivity.⁶⁷¹ This section analyses the security measures to protect information.

Table 5.20

Ensure Security Measures to Protect Information

Year	2012		2013		2014		2015	
	R	UR	R	UR	R	UR	R	UR
Sectors	No %	No %	No %	No %	No %	No %	No %	No %
Closed-End funds	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Consumer Products	37 17%	1 0%	38 17%	0 0%	37 17%	1 0%	38 17%	0 0%
Finance	7 3%	3 1%	7 3%	3 1%	10 4%	0 0%	7 3%	3 1%
Hotels	0 0%	1 0%	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%
Industrial Products	54 24%	16 7%	57 26%	13 6%	63 28%	7 3%	57 26%	13 6%
IPC	0 0%	2 1%	2 1%	0 0%	2 1%	0 0%	2 1%	0 0%
Mining	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Plantations	10 4%	3 1%	12 5%	1 0%	12 5%	1 0%	12 5%	1 0%
Properties	23 10%	4 2%	23 10%	4 2%	27 12%	0 0%	23 10%	4 2%
REITS	4 2%	1 0%	5 2%	0 0%	4 2%	1 0%	5 2%	0 0%
SPAC	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%
Trading/ Services	40 18%	16 7%	44 20%	12 7%	42 19%	14 6%	44 20%	12 7%
Total	176 79%	47 21%	190 85%	33 15%	199 89%	24 11%	190 85%	33 15%

Table 5.20 shows a gradual increase in the percentage of companies that reported measures to protect information. The result shows that the percentage of the reported

⁶⁷¹ Chad Langager, "Who is responsible for protecting and managing shareholders' interests?". (2005).

companies went up from 79% in 2012 to 89% and 85% in 2014 and 2015 respectively. In ensure security, R45 stated that,

“..the Company/ Group has adequate established policies, procedures and guidelines...complied with and are operating effectively in promoting efficiency and proper conduct, and protecting the assets of the Company/Group”.⁶⁷²

To protect and enhance shareholders value, R31 stressed that “There will be a continual focus on measures to protect and enhance shareholders’ value and business sustainability”.⁶⁷³ Also, R130 pointed that “the Group...responsibilities are to protect and enhance shareholder value and the financial performance of the Group and Company”.⁶⁷⁴

The result shows that the majority of the companies under the study reported security measures to protect information. Hwa (2204)⁶⁷⁵ argued that good disclosure of material information will protect market integrity and promote investors’ confidence. Otherwise, according to Dennis and McConnell (2003)⁶⁷⁶, investors would invest less in firms that reside in the countries with poor outsider protection and disclosure governance problems. IR2 stated that “*The Company must keep records for the shareholders to protect them and prove that they are safe on it and no hackers allow to go through their information and maintain its confidentiality*”.⁶⁷⁷

⁶⁷² Ammb Holdings Berhad. “Annual report.” (2014). P49.

⁶⁷³ Sin Heng Chan (Malaya) Berhad. “Annual report.” (2014). P17.

⁶⁷⁴ Hap Seng Consolidated Berhad. “Annual report.” (2014). P47.

⁶⁷⁵ Hwa, Ting Kien. "Corporate Real Estate Activities of Listed Companies: Disclosures, Announcements and Listing Requirements." (2004).

⁶⁷⁶ Denis, Diane K., and John J. McConnell. "International corporate governance." *Journal of financial and quantitative analysis* 38, no. 1 (2003): 1-36.

⁶⁷⁷ Aishah Bidin, Companies Commission of Malaysia, interview by author, UKM, Kajang, Selangor, Malaysia, October 21, (2016).

5.4 Bursa Malaysia Listing Requirements

The BMLR outlines ten items on information disclosure. The following sub-sections present the findings on the items.

5.4.1 Comply with the Bursa Malaysia Listing Requirements

BMLR in section 2.03 requires that all listed companies meet a set of prescribed rules under the SC, equity guidelines, and BMLR. These sets of prescribed rules are also known as regulatory benchmarks, which are divided into two sets of rules to help companies determine if they are best suited for listing on the Main Market or the ACE Market.⁶⁷⁸

Table 5.21

Comply with the Listing Requirement

Year	2012		2013		2014		2015	
	R	UR	R	UR	R	UR	R	UR
Sectors	No	%	No	%	No	%	No	%
Closed-End funds	0	0%	0	0%	0	0%	0	0%
Consumer Products	38	17%	0	0%	38	17%	0	0%
Finance	10	4%	0	0%	10	4%	0	0%
Hotels	1	0%	0	0%	1	0%	0	0%
Industrial Products	70	31%	0	0%	70	31%	0	0%
IPC	2	1%	0	0%	2	1%	0	0%
Mining	0	0%	0	0%	0	0%	0	0%
Plantations	13	6%	0	0%	13	6%	0	0%
Properties	27	12%	0	0%	27	12%	0	0%
REITS	5	2%	0	0%	5	2%	0	0%
SPAC	1	0%	0	0%	1	0%	0	0%
Trading/ Services	56	25%	0	0%	56	25%	0	0%
Total	223	100%	0	0%	223	100%	0	0%

⁶⁷⁸ Paragraph (2.02, 2.04 and 2.05) of BMLR.

Table 5.21 shows that all companies (223) complied with the BMLR requirement from the year of 2012 until 2015. R32 recorded that “This composition fulfils the requirements as set out in the ACE Market Listing Requirements (“Listing Requirements”) of Bursa Malaysia Securities Berhad”.⁶⁷⁹ Also, the board of the companies complied with the listing requirements to ensure that the principle and the recommendations were practiced. R111 stated that “the Board fully supports the disclosure requirements of the Malaysian Code on Corporate Governance 2012 (“the Code”) and Bursa Malaysia Securities Berhad’s Main Market Listing Requirements (“LR”)”.⁶⁸⁰ Also, the company showed different ways to comply with requirements of BMLR, R151 highlighted that “...under the Main Market Listing Requirements (“MMIR”) of Bursa Malaysia Securities Berhad (“Bursa Malaysia”). These principles and Recommendations have been applied by the company and its subsidiaries”.⁶⁸¹

Some companies complied with the various disclosure rules of BMLR. R134 highlighted that “...to the extent of compliance with best practices, under paragraph 15.25 of the Main Market Listing Requirements of Bursa Malaysia Securities Berhad (“Bursa Securities”)”.⁶⁸² Also, R56 stated that “...the Group is in compliance with paragraph 15.25 and Practice Note 9 of Bursa Malaysia’s Listing Requirements”.⁶⁸³

The result showed that all companies under study complied with the requirements of BM, suggesting that such compliance is an important step for companies aiming to meet their long-terms goals as well as enhancing investor confidence in their

⁶⁷⁹ Boilermach Holdings Berhad. “Annual report.” (2014). P21.

⁶⁸⁰ Ho Wah Genting Berhad. “Annual report.” (2014). P17.

⁶⁸¹ Asiamet Education Group Berhad. “Annual report.” (2014). P19.

⁶⁸² Federal Furniture Holdings (M) Berhad. “Annual report.” (2014). P9.

⁶⁸³ Denko Industrial Corporation Berhad. “Annual report.” (2015). P15.

operations. Our interview with IR1 attested that, “Yes, because that is the whole idea of having the BMLR which is to ensure that you have all this information provided for submitted to the regulatory authority”⁶⁸⁴. Moreover, IR2 confirmed that “The companies must comply with the BMLR for two reasons. First since it is a law as indicated at CMSA, and, second, for companies to promote more efficient and effective ways to communicate with its stakeholders”⁶⁸⁵.

5.4.2 The Type of Information Disclosed to the Public

Paragraph 2.03 of BMLR outlines that all listed companies must inform investors and public of all facts or information that might affect their interests, and, in particular, full, accurate and timely disclosure shall be made of any information which may reasonably be expected to have a material effect on the price, value or market activity, such as financial condition, operating results, management compensation, and other areas of their business, which is monitored and enforced by the SC.⁶⁸⁶

Table 5.22

Information disclosed to the public

Year	2012		2013		2014		2015	
	R	UR	R	UR	R	UR	R	UR
Sectors	No	%	No	%	No	%	No	%
Closed-End funds	0	0%	0	0%	0	0%	0	0%
Consumer Products	37	17%	38	17%	38	17%	37	17%
Finance	10	4%	10	4%	9	4%	10	4%
Hotels	1	0%	1	0%	1	0%	1	0%

⁶⁸⁴ Aishah Bidin, Companies Commission of Malaysia, interview by author, UKM, Kajang, Selangor, Malaysia, October 21, 2016.

⁶⁸⁵ Kelly Kheng, Securities Commission of Malaysia, e-mail message to author, December 8, 2016.

⁶⁸⁶ Paragraph (2.03) of BMLR.

Industrial Products	69 31%	1 0%	68 30%	2 1%	70 31%	0 0%	69 31%	1 0%
IPC	1 0%	1 0%	2 0%	0 0%	1 0%	1 0%	1 0%	1 0%
Mining	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Plantations	13 6%	0 0%	12 6%	1 0%	13 6%	0 0%	13 6%	0 0%
Properties	27 12%	0 0%	27 12%	0 0%	27 12%	0 0%	27 12%	0 0%
REITS	5 2%	0 0%	5 2%	0 0%	5 2%	0 0%	5 2%	0 0%
SPAC	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%
Trading/ Services	55 25%	1 0%	56 25%	0 0%	55 25%	1 0%	55 25%	1 0%
Total	219 98%	4 2%	219 98%	4 2%	220 99%	3 1%	219 98%	4 2%

Table 5.22 shows the mode of information disclosed to the public between 2015 and 2012. It shows that 98% of the companies provided the necessary information to investors and the general public of the areas of their operations and how such business operations affect the interest of the investors and the general public at large⁶⁸⁷. R10 ensured that “The Board has established a Corporate Disclosure Policy which serves as a guide to ensure broad dissemination of material information in a comprehensive, accurate and timely manner”.⁶⁸⁸ Also, in reference to the information disclosed to the public, R34 reported that “...transparency and efficiency of its operations, taking into account the requirements for sound and appropriate internal controls and management information systems within the Group”.⁶⁸⁹

Furthermore, R138 stated the different types of information that should be disclosed to the public to provide fair and full presentation of the financial affairs of the corporation. “The accuracy and adequacy of the disclosure of information essential to a fair and full presentation of the financial affairs of the Company and the

⁶⁸⁷ Akhtaruddin, Mohamed, Monirul Alam Hossain, Mahmud Hossain, and Lee Yao. "Corporate governance and voluntary disclosure in corporate annual reports of Malaysian listed firms." *Journal of Applied Management Accounting Research* 7, no. 1 (2009): 1.

⁶⁸⁸ Homeritz Corporation Berhad. “Annual report.” (2014). P15.

⁶⁸⁹ GSB Group Berhad. “Annual report.” (2014). P15.

Group”.⁶⁹⁰ Also, the board of directors stressed special types of material information that could be disclosed to the public during the company’s financial year. R213 disclosed that

“The Board of Directors also received updates and briefings, particularly on regulatory, changes in the regulatory framework, industry technology, including information on significant changes in business risks and procedures, accounting, construction and property development activities”.⁶⁹¹

Mazni (2013)⁶⁹² cautioned that some companies might disclose misleading information in their annual reports. Users or potential investors are therefore advised to be more vigilant when inspecting annual reports. It became clear from an interview with IR2 that *“In general any information that could affect the price or mislead the investors must also be disclosed as required by the law”*.⁶⁹³

5.4.3 Treat all Shareholders Equally in Terms of Information

BMLR states in section 9.01 (4) that companies should treat all shareholders of the same class, whether internal or external shareholders, minority or majority shareholders, domestic or foreign shareholders, equally. Thus, equal treatment of all holders of common shares is one of the key principles of effective CG. Among the specific rights that should be guaranteed equally to all shareholders are the right to receive dividends; pre-emptive rights to purchase additionally placed shares; the right to obtain adequate information on a company’s activities; the right to

⁶⁹⁰ YTL Land & Development Berhad. “Annual report.” (2014). P20.

⁶⁹¹ JMR Conglomeration Berhad. “Annual report.” (2015). P14.

⁶⁹² Mazni Abdullah, et al. (2013).

⁶⁹³ Kelly Kheng, Securities Commission of Malaysia, e-mail message to author, December 8, (2016).

participate in the general shareholders meeting, including adequate disclosure in advance of all materials necessary to make informed decisions and the right to receive a proportionate share of a company's property.⁶⁹⁴

Table 5.23

Treat Shareholders Equally in Information

Year	2012		2013		2014		2015	
	R	UR	R	UR	R	UR	R	UR
Sectors	No %	No %	No %	No %	No %	No %	No %	No %
Closed-End funds	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Consumer Products	38 17%	0 0%	35 16%	3 1%	38 17%	0 0%	35 16%	3 1%
Finance	9 4%	1 0%	8 4%	2 1%	10 4%	0 0%	10 4%	0 1%
Hotels	1 0%	0 0%	1 0%	0 0%	0 0%	1 0%	1 0%	0 0%
Industrial Products	67 30%	3 1%	68 30%	2 1%	69 31%	1 0%	70 31%	0 0%
IPC	2 1%	0 0%	1 0%	1 0%	2 1%	0 0%	2 1%	0 0%
Mining	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Plantations	12 5%	1 0%	13 5%	0 0%	12 5%	1 0%	13 6%	0 0%
Properties	25 11%	2 1%	24 11%	3 1%	25 11%	2 1%	27 12%	0 0%
REITS	5 2%	0 0%	5 2%	0 0%	4 2%	1 0%	5 2%	0 0%
SPAC	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%
Trading/ Services	55 25%	1 0%	55 25%	1 0%	56 25%	0 0%	55 25%	1 0%
Total	215 96%	8 4%	211 95%	12 5%	217 97%	6 3%	219 98%	4 2%

Table 5.23 shows how the companies treated shareholders equally in information. Fair and equal treatment of shareholders maintained the stability of the companies. The result shows 96% of the companies reported equal treatment to shareholders. The directors of a company are required to treat all shareholders fairly. With regards to that, most of the respondents stated clearly that they treated their shareholders equally regarding information. R8 mentioned that "The Board acknowledges the

⁶⁹⁴ Cox, James D. "Equal Treatment for Shareholders: An Essay". *Cardozo L. Rev.* 19 (1997): 615.

importance of timely and equal dissemination of material information to the shareholders, investors and public at large”.⁶⁹⁵ R109 maintained that

“The Board recognises the importance of maintaining transparency and accountability to its shareholders. The effective communication channel between the Board, shareholders and the general public is of utmost importance to the Company to provide sufficient information...”.⁶⁹⁶

Furthermore, some companies disclosed information to the shareholders and public in annual reports. R115 stated that “The Company has established a website at www.super-labels.com from which shareholders, as well as members of the public, may access the latest information on the operations and activities of the”.⁶⁹⁷ Also, some companies provided information through the company website to allow everyone to access to such information including shareholders. R155 stressed that “The Company actively updates its website ([www. symphonylife. my](http://www.symphonylife.my)). Press releases, announcements to Bursa Securities, analysts’ briefings and quarterly results of the Group are also made available on the website”.⁶⁹⁸ In conclusion, most companies treated all shareholders of the same class⁶⁹⁹. It became clear from an interview with IR2 that *“most of the PLCs in Malaysia have their online website to maintain that every member of the company (shareholders and investors) enjoy equal access to information”*.⁷⁰⁰

5.4.4 Directors and audit in Accessing to the Information

⁶⁹⁵ Khind Holdings Berhad. “Annual report.” (2014). P32.

⁶⁹⁶ Perisai Petroleum Teknologi Bhd. “Annual report.” (2014). P49.

⁶⁹⁷ Super Enterprise Holdings Berhad. “Annual report.” (2014). P19.

⁶⁹⁸ Symphony Life Berhad. “Annual report.” (2015). P50.

⁶⁹⁹ Hua, Loh Leong, and Ragayah Mat Zain. “Corporate governance: Theory and some insights into the Malaysian practices.” *Akademika* 71, no. 1 (2007).

⁷⁰⁰ Kelly Kheng, Securities Commission of Malaysia, e-mail message to author, December 8, 2016.

The listing requirements of BM in section 15.04 and 15.17 indicate that all directors and audit must obtain full and unrestricted access to any information or documentation pertaining to the listed issuer whenever it is deemed necessary for the performance of its duties.⁷⁰¹ According to Cianci and Falsetta (2008)⁷⁰² The amount of strategic information disclosure can be controlled and monitored directly by the board of directors in order to ensure the stakeholders obtain relevant and adequate corporate information.

Table 5.24

Access to Information

Year	2012		2013		2014		2015	
	R	UR	R	UR	R	UR	R	UR
Sectors	No	%	No	%	No	%	No	%
Closed-End funds	0	0%	0	0%	0	0%	0	0%
Consumer Products	37	17%	35	16%	37	17%	38	17%
Finance	10	4%	9	4%	10	4%	10	4%
Hotels	1	0%	1	0%	1	0%	1	0%
Industrial Products	70	31%	67	30%	70	31%	70	31%
IPC	1	0%	2	1%	1	0%	2	1%
Mining	0	0%	0	0%	0	0%	0	0%
Plantations	11	5%	12	6%	11	5%	11	5%
Properties	26	12%	26	12%	26	12%	26	12%
REITS	5	2%	5	2%	5	2%	5	2%
SPAC	1	0%	1	0%	1	0%	1	0%
Trading/ Services	53	23%	53	24%	53	23%	53	23%
Total	215	96%	211	95%	215	96%	217	97%

Table 5.24 reveals the mode of access to information. It shows that 215 (96%) companies reported the mode of access to information in 2012 while 211 (95%), 215 (96%) and 217 (97%) in 2013, 2014 and 2015 respectively. In this regard, R47

⁷⁰¹ Paragraph (15.04, 15.18) of BMLR

⁷⁰² Cianci, Anna M., and Diana Falsetta. "Impact of investors' status on their evaluation of positive and negative, and past and future information." *Accounting & Finance* 48, no. 5 (2008): 719-739.

responded that “The directors also have unrestricted access to the information about the Group including the Group’s auditors and consultants”.⁷⁰³ Also, R98 stated that “Directors have access to all information within the Company whether as a full Board or in their individual capacity ... The Audit Committee shall ... have full and unrestricted access to information and relevant to its activities”.⁷⁰⁴ In a similar vein, R99 indicated that “All Directors have access to information of the Company on a timely basis in an appropriate manner and quality necessary to enable them to discharge their duties and responsibilities”.⁷⁰⁵ Other companies gave audit access to their material information any time. R163 highlighted that “the Audit Committee shall...have full and unrestricted access to any information which it requires in the course of performing its duties”.⁷⁰⁶

In sum, most of the companies’ annual reports indicated that the directors and audit obtained full and unrestricted access to any information⁷⁰⁷. In the interview, IR1 stressed that *“It is very important for the directors and audit to access to the information that given to the company if this information is important”*⁷⁰⁸. Moreover, IR2 stated that *“Every member of the board include directors and audit, has unrestricted access to complete information if this information necessary to discharge their duties”*.⁷⁰⁹

5.4.5 Release Material Information in Fullest Public Dissemination

⁷⁰³ Affin Holdings Berhad. “Annual report.” (2014). P38.

⁷⁰⁴ Industriatics Berhad. “Annual report.” (2014). P10.

⁷⁰⁵ Sealink International Berhad. “Annual report.” (2014). P22.

⁷⁰⁶ Pavilion Real Estate Investment Trust. “Annual report.” (2014). P36.

⁷⁰⁷ Lee, Wen Chiat. “Board Structures, Ownership Structure and Firm Value in Malaysian Public Listed Manufacturing Companies.” PhD diss., Universiti Malaysia Sarawak, 2011.

⁷⁰⁸ Aishah Bidin, Companies Commission of Malaysia, interview by author, UKM, Kajang, Selangor, Malaysia, October 21, 2016.

⁷⁰⁹ Kelly Kheng, Securities Commission of Malaysia, e-mail message to author, December 8, 2016.

Under section 9.03 (1) of BMLR, a PLC is required to make immediate public disclosure of all material information concerning its affairs, except in exceptional circumstances. Companies are required to release the information to the public in a manner designed to ensure the fullest possible public dissemination.⁷¹⁰

Table 5.25

Release Information in Public Dissemination

Year	2012		2013		2014		2015	
	R	UR	R	UR	R	UR	R	UR
Sectors	No %	No %	No %	No %	No %	No %	No %	No %
Closed-End funds	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Consumer Products	36 16%	2 1%	36 16%	2 1%	38 17%	0 0%	36 16%	2 1%
Finance	9 4%	1 0%	10 4%	0 0%	10 4%	0 0%	10 4%	0 0%
Hotels	0 0%	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%	1 0%
Industrial Products	58 26%	12 5%	60 27%	10 4%	63 28%	7 3%	60 27%	10 4%
IPC	2 1%	0 0%	2 1%	0 0%	1 0%	1 0%	2 1%	0 0%
Mining	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Plantations	12 5%	1 0%	12 5%	1 0%	12 5%	1 0%	12 5%	1 0%
Properties	25 11%	2 1%	25 11%	2 1%	26 12%	1 0%	25 11%	2 1%
REITS	3 1%	2 1%	5 2%	0 0%	3 1%	2 1%	5 2%	0 0%
SPAC	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%
Trading/ Services	50 22%	6 3%	51 23%	5 2%	51 23%	5 2%	55 25%	1 0%
Total	196 88%	27 12%	202 91%	21 9%	205 92%	18 8%	206 91%	17 8%

Table 5.25 displays the number and the percentage of the companies that released information in full to the public. It shows that 196 companies in 2012 reported the mode of release information to the public. The figure increased to 206 (91%) in 2015. In this context, R22 stressed, “The Group also releases financial results on a quarterly basis. The Group also aims to have full interaction with fund managers,

⁷¹⁰ Iu, Justin, and Jonathan Batten. "The implementation of OECD corporate governance principles in post-crisis Asia". *Journal of Corporate Citizenship* 2001, no. 4 (2001): 47-62.

bankers and analysts”.⁷¹¹ Also, the release of information showed the company’s commitment to the public. R118 stated that “The annual reports, press releases, quarterly results and any announcements on material corporate exercises are the primary modes of disseminating information on the Group’s business activities and financial performance”.⁷¹² However, several companies did not make any release of material information during the financial year because, as indicated by R125, “There is no significant variance between the results for the financial year and the unaudited results previously released by the Company”.⁷¹³

Some companies identified how they released their material information in fullest to the public. R160 stated that “The notice of the AGM is also published in a national newspaper and released to the BMSB for public dissemination. Members of the Board are present at the AGM to answer questions raised at the meeting”.⁷¹⁴ Also, R206 ensured that the release of the information was done through the annual reports “...Information is disseminated via annual reports, circulars to shareholders, press releases, and various announcements made from time to time to Bursa Malaysia”.⁷¹⁵

In conclusion, the result shows that the majority of the companies released material information to the public and did not disclose material information on an individual or selective basis⁷¹⁶. In the interview, IR2 highlighted that *“In my opinion information should be disclosed in fullest public dissemination to maintain the*

⁷¹¹ Paragon Union Berhad. “Annual report.” (2014). P20.

⁷¹² Cocoland Holdings Berhad. “Annual report.” (2014). P24.

⁷¹³ TDM Berhad. “Annual report.” (2015). P60.

⁷¹⁴ YLI Holdings Berhad. “Annual report.” (2014). P22.

⁷¹⁵ CLIQ Energy Berhad. “Annual report.” (2014). P42.

⁷¹⁶ Hwa, Ting Kien. (2004).

*relationship with the investors and assist them to make accurate investment decision”.*⁷¹⁷

5.4.6 Disclosure of Information Made on a Selective Basis

The BMLR in section 9.08 (2) indicates that PLCs must ensure that no disclosure of information is made on an individual or selective basis to analysts, shareholders, journalists or other persons unless such information has previously been fully disclosed and disseminated to the public. If material information is inadvertently disclosed on the occasion of any meetings with analysts, journalists or others, it must be publicly disseminated as promptly as possible.⁷¹⁸

Table 5.26

Information is made on a Selective Basis

Year	2012		2013		2014		2015	
	R	UR	R	UR	R	UR	R	UR
Sectors	No %	No %	No %	No %	No %	No %	No %	No %
Closed-End funds	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Consumer Products	38 17%	0 0%	38 17%	0 0%	38 17%	0 0%	38 17%	0 0%
Finance	10 4%	0 0%	9 4%	1 0%	9 4%	1 0%	10 4%	0 0%
Hotels	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%
Industrial Products	69 30%	1 0%	68 30%	2 1%	68 30%	2 1%	69 30%	1 0%
IPC	2 1%	0 0%	2 1%	0 0%	2 1%	0 0%	2 1%	0 0%
Mining	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Plantations	13 6%	0 0%	13 6%	0 0%	13 6%	0 0%	13 6%	0 0%
Properties	23 10%	4 2%	24 11%	3 1%	24 11%	3 1%	27 12%	0 1%
REITS	5 2%	0 0%	5 2%	0 0%	5 2%	0 0%	5 2%	0 0%
SPAC	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%
Trading/ Services	54 24%	2 1%	54 24%	2 1%	54 24%	2 1%	55 24%	1 0%
Total	216 97%	7 3%	215 96%	8 4%	215 96%	8 4%	221 99%	2 1%

⁷¹⁷ Kelly Kheng, Securities Commission of Malaysia, e-mail message to author, December 8, 2016.

⁷¹⁸ Paragraph, (9.08) of BMLR.

Table 5.26 shows that 216 (97%) companies did not disclose information on an individual or selective basis. The number of companies that did so increased to 221(99%) in 2015. R11 stated that

“The Company...ensure that no disclosure of material information is made to an individual or selective basis to any persons unless such information has previously been fully disclosed in an announcement to the relevant regulatory authorities”.⁷¹⁹

Also, R167 highlighted that “The procedures selected depend on our judgement, including the assessment of risks of material misstatement of the financial statements, whether due to fraud or error”.⁷²⁰ Some companies indicated information of selective management system. R12 responded that “The Group...adopts the Selective Management System (“SMS”) to manage the timber concession area in its role as logs supplier for the consumption of the Group”.⁷²¹

In sum, the result shows that the majority of the companies reported that the disclosure of information was done not on an individual or selective basis⁷²². IR2 stressed that “*Investors must be treated equally and not of the information should be made on an individual or selective basis*”.⁷²³

⁷¹⁹ Amtek Holdings Berhad. “Annual report.” (2014). P20.

⁷²⁰ Heitech Padu Berhad. “Annual report.” (2014). P64.

⁷²¹ Golden Pharos Berhad. “Annual report.” (2014). P51.

⁷²² Haniffa, Roszaini M., and Terry E. Cooke. "The impact of culture and governance on corporate social reporting." *Journal of accounting and public policy* 24, no. 5 (2005): 391-430.

⁷²³ Kelly Kheng, Securities Commission of Malaysia, e-mail message to author, December 8, 2016.

5.4.7 Disclose Material Information that Could Effect the Share Prices

BMLR states that listed companies must disclose all material information that could affect the share price, share value or market activity or any other information that might affect the public interests in particular, full, accurate, and timely.⁷²⁴

Table 5.27

Disclose Information that Effect the Share Prices

Year	2012		2013		2014		2015	
	R	UR	R	UR	R	UR	R	UR
Sectors	No %	No %	No %	No %	No %	No %	No %	No %
Closed-End funds	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Consumer Products	36 16%	2 1%	38 17%	0 0%	36 16%	2 1%	38 17%	0 0%
Finance	8 4%	2 1%	9 4%	1 0%	10 4%	0 0%	10 4%	0 0%
Hotels	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%
Industrial Products	62 28%	8 4%	62 28%	8 4%	65 29%	5 2%	65 29%	5 2%
IPC	2 1%	0 0%	1 0%	1 0%	2 1%	0 0%	2 1%	0 0%
Mining	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Plantations	11 5%	2 1%	10 4%	3 1%	11 5%	2 1%	13 6%	0 0%
Properties	25 11%	2 1%	25 11%	2 1%	25 11%	2 1%	25 11%	2 1%
REITS	2 1%	3 1%	4 2%	1 0%	3 1%	2 1%	2 1%	3 1%
SPAC	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%
Trading/ Services	50 22%	6 3%	52 23%	4 2%	52 22%	4 3%	55 25%	1 0%
Total	198 89%	25 11%	203 91%	20 9%	206 92%	17 8%	212 95%	11 5%

Table 5.27 indicates that 89% of the companies reported the information that could have affected the share prices in 2012. The number of companies that did so increased to 91%, 92% and 95% in 2013, 2014 and 2015 respectively. On material information that could affect share prices, R43 stressed that

“...all the Group’s businesses are subject to the risk that market prices and rates will move, resulting in profit or losses to the Group.

⁷²⁴ Paragraph, (2.03) of BMLR.

Furthermore, significant or sudden movements in rates could affect the Group's liquidity/funding position".⁷²⁵

Also, the majority of the companies avoided inadvertent disclosure of information that may affect the company's value or share price. As noted by R90, "The Company also adopts the recommended best practice of voluntary disclosure of information to keep the public fully informed of any matters that may have any impact on the market or share price".⁷²⁶ Some companies showed the effect of the share price through the change of the share value, as R95 indicated that "...especially in Asia Pacific, after more than three years of relatively strong and fairly stable oil prices. Brent crude oil price averaged US\$99 per barrel in 2014, down from US\$109 per barrel in 2013".⁷²⁷ Also, some companies provided general material information regarding the effect of the share prices. R113 indicated that

"During the financial year, the Company repurchased 30,000 of its issued ordinary shares of RM0.50 each listed and quoted on the Main Market of Bursa Malaysia Securities Berhad on the open market at an average buy-back price of RM1.0594 per share. The total consideration paid including transaction costs amounting to RM31,781 was financed by internally generated funds".⁷²⁸

On sharing full, accurate, and timely information in the annual reports that could affect share price, IR2 stressed that *"Yes that is a requirement under the old and new law that any information that could affect the share prices must be disclosed"*.⁷²⁹

⁷²⁵ Bimb Holdings Berhad. "Annual report." (2014). P179.

⁷²⁶ Petron Malaysia Refining & Marketing Bhd. "Annual report." (2015). P41.

⁷²⁷ Shell Refining Company (Federation Of Malaya) Berhad. "Annual report." (2014). P13.

⁷²⁸ Tas Offshore Berhad. "Annual report." (2014). P32.

⁷²⁹ Kelly Kheng, Securities Commission of Malaysia, e-mail message to author, December 8, 2016.

According to Abdul Rahman (1998)⁷³⁰, companies that are listed on BM should disclose any false, misleading or deceptive information to the public.

5.4.8 Immediate Announcement to Bursa Malaysia

The requirements of BM indicate that PLCs must make immediate announcements to the exchange.⁷³¹ There are two types of material disclosure under the BMLR: (a) a listed issuer is required to undertake a materiality assessment of the information before making an announcement, and (b) a listed issuer must announce any information which has been predetermined under the BMLR to be material⁷³². For the prescribed events set out in paragraph/Rule 9.19 of the BMLR, the listed issuer must immediately announce the event to BM, upon its occurrence.⁷³³

Table 5.28

Immediate announcement to BM

Year	2012		2013		2014		2015	
	R	UR	R	UR	R	UR	R	UR
Sectors	No	%	No	%	No	%	No	%
Closed-End funds	0	0%	0	0%	0	0%	0	0%
Consumer Products	37	17%	1	0%	38	17%	35	16%
Finance	7	3%	3	1%	10	4%	10	4%
Hotels	1	0%	0	0%	0	0%	1	0%
Industrial Products	67	30%	3	1%	66	30%	70	31%
IPC	2	1%	0	0%	1	0%	2	1%
Mining	0	0%	0	0%	0	0%	0	0%
Plantations	13	6%	0	0%	12	5%	13	6%
Properties	26	12%	1	0%	26	12%	27	12%
REITS	5	2%	0	0%	5	2%	5	2%
SPAC	1	0%	0	0%	1	0%	1	0%

⁷³⁰ Abdul Rahman, Azhar Bin. "Disclosure of corporate financial information in Malaysia." (1998).

⁷³¹ Paragraph (9.19) of BMLR

⁷³² BMLR. "Corporate Disclosure Guide". (2011). Available at: http://www.mia.org.my/new/downloads/circularsandresources/circulars/2011/50/50-2011CD_Guide.pdf

⁷³³ Paragraph (9.19) of BMLR

Trading/ Services	55 25%	1 0%	56 25%	0 0%	56 25%	0 0%	55 25%	1 0%
Total	214 96%	9 4%	216 97%	7 3%	217 97%	6 3%	219 98%	4 2%

Table 5.28 indicates an increasing number of companies that made an immediate announcement from 214 (96%) in 2012 to 219 (98%) in 2015. In this context, R26 declared “Such information is communicated to them through the Annual Report and the various disclosures and announcements made to Bursa Securities from time to time”.⁷³⁴ Also, R194 replied that “The Board is responsible for ensuring that the financial statements of the Group as reported in the quarterly announcements to BMSB and the Annual Report to Shareholders”.⁷³⁵ However, some companies made the announcement of the companies operation and performance at the Company’s Annual General Meeting. R213 stated that,

“...at the Company’s Annual General Meeting. Alternatively, they may obtain the Company’s latest announcement such as quarterly financial results, corporate announcements via the Bursa Malaysia Securities Berhad”⁷³⁶.

Also, R189 indicated that the corporation and the board profile announced to BM via the website. “Information on the website includes the Group’s corporate profile, Board profiles, announcements to Bursa Malaysia, press releases, share information, financial results and corporate news”.⁷³⁷

The According to Hwa (2004)⁷³⁸ the detailed information on announcements is expected from the company. Brief disclosures can be provided indicating the

⁷³⁴ Ekovest Berhad. “Annual report.” (2014). P28.

⁷³⁵ Suria Capital Holdings Berhad. “Annual report.” (2014). P41.

⁷³⁶ Jmr Conglomeration Berhad. “Annual report.” (2014). P15.

⁷³⁷ Sapura Energy Berhad. “Annual report.” (2014). P100.

⁷³⁸ Hwa, (2004).

resolutions in the agenda approved or otherwise by the shareholders. In the same context, IR1 indicated that *“If there is any porches or sale or securities you need to inform in writing to the regulatory authorities”*⁷³⁹.

5.4.9 Activity that Mislead Investors or Cause Unwarranted Price

BMLR in section 9.12 states that all PLCs must refrain from promotional disclosure activity in any form whatsoever or howsoever which may mislead investors or cause unwarranted price movement and activity in the companies. Such activity includes news releases, public announcements, predictions, reports or advertisements which are not justified by actual developments concerning, exaggerated, overstated, or over-zealous.⁷⁴⁰ PLCs should refrain from promotional disclosure activity that exceeds that necessary to enable the public to make informed investment decisions. Such activity includes disclosure activity, which may mislead investors and cause unwarranted price movements and activity in a company's securities.

Table 5.29

Disclose the Activity that Mislead Investors

Year	2012		2013		2014		2015	
	R	UR	R	UR	R	UR	R	UR
Sectors	No	%	No	%	No	%	No	%
Closed-End funds	0	0%	0	0%	0	0%	0	0%
Consumer Products	37	17%	1	0%	38	17%	0	0%
Finance	10	4%	0	0%	10	4%	0	0%
Hotels	1	0%	0	0%	1	0%	0	0%
Industrial Products	68	30%	2	1%	68	30%	2	1%
IPC	2	1%	0	0%	2	1%	0	0%

⁷³⁹ Aishah Bidin, Companies Commission of Malaysia, interview by author, UKM, Kajang, Selangor, Malaysia, October 21, 2016,

⁷⁴⁰ Paragraph 9.12 of BMLR

Mining	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Plantations	13 6%	0 0%	12 5%	1 0%	13 6%	0 0%	13 6%	0 0%
Properties	26 12%	1 0%	26 12%	1 0%	27 12%	0 0%	27 12%	0 0%
REITS	5 3%	0 0%	5 2%	0 0%	4 2%	1 0%	4 2%	1 0%
SPAC	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%
Trading/ Services	56 25%	0 0%	55 25%	1 0%	55 25%	1 0%	55 25%	1 0%
Total	219 98%	4 2%	218 98%	5 2%	219 98%	4 2%	219 98%	4 2%

Table 5.29 shows that 98% of the companies reported the activities that misled investors while only 2% did not do so. R76 pointed out that “at the date of this report, the directors are not aware of any circumstances which would render the values attributed to the current assets in the financial statements of the Group and of the Company misleading”.⁷⁴¹ Indeed, R35 reported that “not otherwise dealt with in this report or the financial statements which would render any amount stated in the financial statements misleading”.⁷⁴² R210 supported and noted that “otherwise dealt with in this report or financial statements of the Group and of the Company which would render any amount stated in the financial statements misleading”.⁷⁴³

In sum, most of the companies disclosed the activities that misled investors. On the disclosure of information that could help investors make informed decisions about unwarranted price movements in the company’s securities IR1 made it clear that “Companies should not be holding or organising an event that would mislead the investors or cause unwarranted price which causes a different change in the value of

⁷⁴¹ Timberwell Berhad. “Annual report.” (2014). P40.

⁷⁴² Euro Holdings Berhad. “Annual report.” (2014). P39.

⁷⁴³ Shin Yang Shipping Corporation Berhad. “Annual report.” (2014). P26.

shares”⁷⁴⁴. IR2 assured that “*Yes, the companies must disclose any event that could mislead investors or cause unwarranted price*”.⁷⁴⁵

5.4.10 Annual Reports as a Basis for Making Decisions

An annual report is defined as;

"an annual publication that public corporations must provide to shareholders to describe their operations and financial conditions. The front part of the report often contains an impressive combination of graphics, photos and an accompanying narrative, all of which chronicled the company's activities over the years. The back part of the report contains detailed financial and operational information".⁷⁴⁶

Investors and other financial audiences rely on the accuracy of financial information in an annual report to make informed decisions⁷⁴⁷.

Table 5.30

Annual Reports as a Basis for Making Decisions

Year	2012		2013		2014		2015	
	R	UR	R	UR	R	UR	R	UR
Sectors	No %	No %	No %	No %	No %	No %	No %	No %
Closed-End funds	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Consumer Products	38 17%	0 0%	35 16%	3 1%	37 17%	1 0%	38 17%	0 0%
Finance	10 4%	0 0%	9 4%	1 0%	10 4%	0 0%	10 4%	0 0%
Hotels	0 0%	1 0%	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%
Industrial Products	68 30%	2 1%	67 30%	3 1%	70 31%	0 0%	70 31%	0 0%
IPC	2 1%	0 0%	2 1%	0 0%	1 0%	1 0%	2 1%	0 0%

⁷⁴⁴ Aishah Bidin, Companies Commission of Malaysia, interview by author, UKM, Kajang, Selangor, Malaysia, October 21, 2016.

⁷⁴⁵ Kelly Kheng, Securities Commission of Malaysia, e-mail message to author, December 8, 2016.

⁷⁴⁶ O'Donovan, Gary. "Environmental disclosures in the annual report: Extending the applicability and predictive power of legitimacy theory." *Accounting, Auditing & Accountability Journal* 15, no.3 (2002): 344371.

⁷⁴⁷ Dennis Larsen, "The annual report: a reputation management vehicle". *Corporate Communication Centre RSM Erasmus University*. (2016).

Mining	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Plantations	12 5%	1 0%	12 6%	1 0%	11 5%	2 1%	11 5%	2 1%
Properties	27 12%	0 0%	26 12%	1 0%	26 12%	1 0%	26 12%	1 0%
REITS	5 2%	0 0%	5 2%	0 0%	5 2%	0 0%	5 2%	0 0%
SPAC	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%
Trading/ Services	56 25%	0 0%	53 24%	3 1%	53 23%	3 1%	53 23%	3 1%
Total	219 98%	4 2%	211 95%	12 5%	215 96%	8 4%	217 97%	6 3%

Table 5.30 shows that 97% of the companies considered the annual reports as a basis for making decisions. In this regard, R43 indicated that “The Company also discloses its corporate governance and internal control statements in the Annual Report...”.⁷⁴⁸ The result also showed that the annual report was the main source to present and provide general information to the public. R44 maintained that “...sufficient information, such as personal profile, meetings attendance and shareholding in the Company of each director standing for re-election are furnished in the Annual Report”.⁷⁴⁹ Additionally, R222 stated that

“The Board aims to present a balanced, clear and meaningful assessment of the Group’s financial performance and prospects primarily through the annual financial statements and the quarterly announcement of results to shareholders, as well as the Chairman’s Statement in the Annual Report”.⁷⁵⁰

Also, companies used the annual report as the main channel of communication with its stakeholders. As noted by R193, “The Annual Report is the main channel of communication between the Company and its stakeholders”.⁷⁵¹ On the role of annual reports as a basis for making a decision, IR1 highlighted that “Annual reports should be used as the first document that can give some guidelines to the investors to invest

⁷⁴⁸ BIMB Holdings Berhad. “Annual report.” (2014). P66.

⁷⁴⁹ Syarikat Takaful Malaysia Berhad. “Annual report.” (2014). P35.

⁷⁵⁰ Luster Industries Bhd. “Annual report.” (2014). P17.

⁷⁵¹ Dutch Lady Milk Industries Berhad. “Annual report.” (2015). P27.

or not in the company”⁷⁵². Also, IR2 stated that “Annual reports are the primary data that the companies use which contains all the necessary disclosure information also facts and figures about the company”.⁷⁵³

5.4.11 Insider Trading

Insider trading is an activity involving the purchase and sale of shares without making information available to the public. Disclosing such information would impact the price of the shares⁷⁵⁴. The insider makes use of the non-public information to gain profit or avoid loss by purchasing securities or inquiring others to do the same. The reasons for the ban are rooted from the need to maintain market efficiency and soundness among shareholders. For all investors to have equal access to corporate information, securities market is supposed to be effective⁷⁵⁵.

Table 5.31

Insider Trading

Year	2012		2013		2014		2015	
	R	UR	R	UR	R	UR	R	UR
Sectors	No	%	No	%	No	%	No	%
Closed-End funds	0	0%	0	0%	0	0%	0	0%
Consumer Products	36	16%	2	1%	36	16%	35	16%
Finance	8	4%	2	1%	10	4%	10	4%
Hotels	1	0%	0	0%	1	0%	0	0%
Industrial Products	37	17%	33	15%	40	18%	59	26%
IPC	2	1%	0	0%	1	0%	2	1%
Mining	0	0%	0	0%	0	0%	0	0%
Plantations	9	4%	4	2%	7	3%	11	5%

⁷⁵² Aishah Bidin, Companies Commission of Malaysia, interview by author, UKM, Kajang, Selangor, Malaysia, October 21, 2016.

⁷⁵³ Kelly Kheng, Securities Commission of Malaysia, e-mail message to author, December 8, 2016.

⁷⁵⁴ Kadir, R. and Muhamad, S. "Insider trading in Malaysia; towards an improved regulation." *International Journal of Law and Management* 54, no. 1 (2012): 78-86.

⁷⁵⁵ Ameer, Rashid, and Radiah Othman. "Insider trading in Malaysia." (2012).

Properties	14 6%	13 6%	18 8%	9 4%	18 8%	9 4%	20 9%	7 3%
REITS	3 1%	2 1%	5 2%	0 0%	2 1%	3 1%	3 1%	2 1%
SPAC	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%
Trading/ Services	37 17%	19 9%	36 16%	20 9%	40 18%	16 7%	45 20%	11 5%
Total	148 66%	75 34%	155 70%	68 30%	177 79%	46 21%	186 83%	37 17%

Table 5.31 presents the finding on effective insider trading among PLCs. It reveals that the number of the companies that reported insider trading reduced from 148 (66%) in 2012 to 186 (83%) in 2015. PLCs have to ensure that all the employees acknowledge the insider trading policy and that if they know something material they should not be disclosed before an official announcement is made to Bursa Malaysia publicly. In this regard, R115 stated that “The Company has in place.... the manner in which the material information is to be disseminated and confidential information maintained”⁷⁵⁶.

Moreover, PLCs are required to make material information available to all investors at the same exact time when first disseminating it beyond the company. In this regard, R82 stated that "The board has established a corporate disclosure policy which serves as a guide to ensure broad dissemination of material information in a comprehensive, accurate and timely manner and according to all applicable legal and regulatory requirements"⁷⁵⁷. Similarly, R110 highlighted that “Information disseminated is clear, relevant and comprehensive, provided on a timely basis and is readily accessible by all stakeholders...”⁷⁵⁸.

The result illustrates an increasing number of companies that reported insider trading in their annual reports. The essence of this procedure is to boost disclosure and allow

⁷⁵⁶http://disclosure.bursamalaysia.com/FileAccess/apbursaweb/download/?name=EA_DS_ATTACHMENTS&id=166634. (3 Sept 2014). (R115). P21.

⁷⁵⁷http://disclosure.bursamalaysia.com/FileAccess/apbursaweb/download/?name=EA_DS_ATTACHMENTS&id=166922. P15. (2014).

⁷⁵⁸http://disclosure.bursamalaysia.com/FileAccess/apbursaweb/download?id=174980&name=EA_DS_ATTACHMENTS. P26. (2015).

for proper transparency. In order to guarantee that all communications to the public are invested in the business, and the affairs of the company are timely, widely adopted according to the applicable, legal and regulatory requirements. Also, it is also meant to strengthen the relations between the companies and the investors to maintain the market stability.

5.5 Conclusion

In recent years, regulatory bodies have promulgated new CG requirements with the aim of enhancing corporate disclosure. In Malaysia, the BMLR has raised the standards of CG of PLCs so as to enhance the confidence of investors, and to further improve the integrity of the capital market. This chapter examined various issues concerning to the quality of information disclosed in the annual reports of the selected Malaysian PLCs. The results of the analysis showed relatively high compliance with corporate disclosure in all companies under study, implying that they were aware of the sanctions and awareness they might face for non-compliance.

The results also showed that among 11 modes, only two were fully implemented CG principles and were found to have significantly and positively reported the level of CG disclosure, which indicates good CG and are in line with principle of CG. In contrast, the other modes including corrective action, effective corporate disclosure, the importance of enhancing CG practice, ensuring accurate and timely disclosure, the board function, the board responsibility to disclose information, appropriate disclosure policies and disclose personal interest were reported slightly and negatively and which implies partial implementation of the CG, while the extent of compliance with the MCCG shows that the highest number of companies that did not

comply with the principles. Furthermore, the result indicated that out of the nine items only two were negatively reported on the implementation of the law of disclosure which is confidential matters and equal access to material information.

Otherwise, BM indicated that listed companies must meet a set of prescribed rules under the listing requirements. The results of the analysis showed that the selected items achieved high compliance with the listing requirements except the release of material information in the fullest to the public and disclosure of material information that could affect the share prices which recorded negative compliance with the requirements. The current study found that companies reported high compliance with the CG principle, law of disclosure, and BMLR. Also, the research showed that the disclosures through the companies' annual reports have provided slightly and sometimes complicated information to the investors. Finally, the study concluded that for investors to make correct investment decision and avoid investment fraud they need to know certain facts and concepts, such as checking the background of stockbroker or investment advisor before investing. Also, investors need to know at least the basic actions to make their investment decisions.

For this purpose, the research suggests developing or implementing policies, procedures or guidelines on in accordance to CG reflections in its investment supervision operations and due diligence, this might cover such parts as commitment to moral CG, the equitable treatment and rights of shareholders, the disclosure and transparency, the composition and responsibilities as well the role of stakeholders of the board. Likewise, education on CG matters to its supervision and investment staff should be offered. Encouraging corporations to spend and attractive the board

members and the management in a dialogue to promote development in those situations where CG practices are weak can also be considered. Table 5.31 shows the number of companies that complied and did not comply.

Table 5.32

Compliance with CG and BMLR

No	Item	Compliance	Non-Compliance
1	Good corporate governance	223	0
2	Taking corrective action	204	19
3	Alignment with the principles of MCCG	223	0
4	Effective corporate disclosure policies	204	19
5	Compliance with the CG	177	46
6	Enhance CG practices	204	19
7	Accurate and timely disclosure	218	5
8	Board of directors function	221	2
9	The board responsible to disclose information	221	2
10	Ensure appropriate disclosure	216	7
11	Disclose personal interest	212	11
12	Furnish necessary information	220	3
13	Members should inform the company of holds any voting shares	217	6
14	Disclose the nature of the interest	215	8
15	Information professional	219	4
16	Offer notice in writing of shares, debentures	219	4
17	Unfavourable material information	217	6
18	Confidential matters	116	107
19	Equal access to material information	211	12
20	Ensure security measures to protect information and document	176	47
21	Comply with the BMLR	223	0

22	The type of information disclose to the public	219	4
23	Treat shareholders equally information	215	8
24	Directors and audit in access to information	215	8
25	Release material information in fullest public dissemination	196	27
26	Information is made on a selective basis	216	7
27	Information that could effect the share price	198	25
28	Immediate announcement to BM	214	9
29	Mislead investors or cause unwarranted price	219	4
30	Annual reports as a basis for making decisions	219	4

CHAPTER SIX

BEST PRACTICE OF CORPORATE GOVERNANCE AMONG PUBLIC LISTED COMPANIES

6.1 Introduction

The objective of this chapter is to analyse and discuss best practices of CG issues in the Malaysian PLCs. This section is structured as follows. It first provides an overview of best practices in general, followed by the analysis of best practice in the companies' guidelines and the annual reports. Finally, a conclusion is offered.

6.2 Overview of Best Practice

The Principles of CG were initially developed in the US, UK, Australia, and South Africa through a series of publications by the CG committees, best practices codes, and principles of CG in the 1980s. However, the need for change came as a result of poor quality and ineptitude performance of some corporate organisations which led to the erosion of investors' confidence in the market.⁷⁵⁹ The Cadbury Report defines CG as “the system by which companies are directed and controlled”⁷⁶⁰. Generally speaking, CG pertains to the process and structure for overseeing the direction and management of a business entity so that it carries out its mandate and objectives

⁷⁵⁹ Cheah, F. S., & Lee, L. S. "Corporate Governance in Malaysia: Principle and Practices". *August Publishing Sdn Bhd.* (2009).

⁷⁶⁰ Garrett, Allison Dabbs. "Themes and variations: The convergence of corporate governance practices in major world markets". *Denv. J. Int'l L. & Pol'y* 32 (2003): 147.

effectively⁷⁶¹. Through proper governance of the corporation, economic and financial performance can be enhanced. Accordingly, CG plays a crucial role in the allocation of resources and returns.⁷⁶² Best practices are avenues through which top companies have achieved excellent financial performance. Institutional investors across the globe are pressing on the best practices of CG. As such, they call for the four fundamental concerns in CG. These are the alignment of executive pay with company performance, the board of director independence, the reliability of corporate reporting, and financial performance.⁷⁶³

The MCCG release in 2000 provides a set of principles and best practices for companies on CG⁷⁶⁴. The Code clearly states what best practices are and how they will serve as guidelines for companies in making adequate disclosure as obligations under the BMLR. The Code aims at assisting companies to adhere totally to disclosure requirement, as this will help boost their public image while investor confidence is increased. In this regard, the Code sets out three forms of recommendations: Part 1 sets out broad principles of good CG. The objective of the principles is to allow companies flexibility in applying the principles according to the varying circumstances of individual companies. Part 2 sets out best practices for companies. It identifies a set of guidelines or practices intended to assist companies

⁷⁶¹ World Bank. "Report on the Observance of Standards and Codes (ROSC) of Corporate Governance". Corporate Governance Country Assessment: Malaysia. (2005). Available at: http://worldbank.org/ifa/rosc_cg_malaysia.pdf.

⁷⁶² O'Sullivan, Mary. "Contests for corporate control: Corporate governance and economic performance in the United States and Germany". OUP Catalogue (2001).

⁷⁶³ Lion, M. "Investors call for strong corporate governance". *Internal Auditor* 63, no. 3 (2006):16-18.

⁷⁶⁴ HLFC, (2000). P1

in designing their approach to CG. Part 3 is not addressed to listed companies but to investors and auditors to enhance their role in CG. These principles are voluntary.⁷⁶⁵

6.3 Best Practice Analysis

The study chose to analyse best practices of CG as disclosed in the annual reports, guidelines, board charter, international codes of best practice⁷⁶⁶, and literature⁷⁶⁷. The analysis started with directors, directors' remuneration, relation with shareholders, accountability, and audit. The choice of these items was based on the UK Corporate Governance Code (2016), Sri Lanka Code of Best Practice on CG (2013) and existing literature.

6.3.1 Directors

This part aims to analyse and discuss the directors' function in the companies' guideline and annual report.

6.3.1.1 The Board of Directors

A board of directors is a body of elected or appointed members who jointly oversee the activities of a company. It may also be called "*the executive board*". The CA 2016 in section 4 (2) indicates that the composition of a corporation's board of

⁷⁶⁵ Best practices in corporate disclosure, July 2004. Available at: http://www.sc.com.my/eng/html/cg/pdf/BestPracticesInCorporateDisclosures_bursaMalaysia.pdf

⁷⁶⁶ Financial Reporting Council. "The UK Corporate Governance Code". September. (2014)

- The Securities and Exchange Commission of Sri Lanka. "Code of Best Practice on Corporate Governance". *The Institute of Chartered Accountants of Sri Lanka*. (2013).

⁷⁶⁷ Cheah, Foo Seong, and Leok Soon Lee. "Corporate Governance in Malaysia: Principles and Practices in Malaysia". August Pub., (2008).

- Saad, Noriza Mohd. "Corporate governance compliance and the effects to capital structure in Malaysia". *International Journal of Economics and Finance* 2, no. 1 (2010): 105.

directors shall be deemed to be controlled by another corporation if that other corporation by the exercise of some power exercisable by it without the consent or concurrence of any other person can appoint or remove all or a majority of the directors, and for the purposes of this provision that other corporation shall be deemed to have the power to make such an appointment. The internal regulations of the companies commonly specify the number of the board, how they are to be chosen, and when they are to meet.⁷⁶⁸

Table 6.1

The Board of Directors

Year	2012		2013		2014		2015	
	R	UR	R	UR	R	UR	R	UR
Sectors	No	%	No	%	No	%	No	%
Closed-End funds	0	0%	0	0%	0	0%	0	0%
Consumer Products	33	15%	5	2%	33	15%	4	2%
Finance	8	4%	2	1%	10	4%	38	17%
Hotels	1	0%	0	0%	1	0%	0	0%
Industrial Products	67	30%	3	1%	68	30%	2	1%
IPC	2	1%	0	0%	2	1%	69	31%
Mining	0	0%	0	0%	0	0%	1	0%
Plantations	13	6%	0	0%	12	6%	0	0%
Properties	26	12%	1	0%	26	12%	1	0%
REITS	4	2%	0	0%	4	2%	0	0%
SPAC	1	0%	0	0%	1	0%	4	2%
Trading/ Services	55	25%	1	0%	55	25%	1	0%
Total	209	94%	14	6%	212	95%	11	5%
					213	96%	10	4%
							217	97%
							6	3%

Table 6.1 shows the board of directors' size. A total of 209 (94%) companies in 2012 reported the power and the responsibilities of the board of directors while 212 (95%), 213 (96%) and 217 (97%) did so in 2013, 2014 and 2015 respectively. In this

⁷⁶⁸ Anderson, Raymond, and Hugh Sawyer. "The board of directors as an agent of change in turnarounds". (2013).

respect, R12 talked about the composition of the board. "...the Board has seven members, comprising two (2) Independent Non-Executive Directors and five (5) Non-Independent Non-Executive Directors that includes the Chairman".⁷⁶⁹ Furthermore, R39 disclosed that "The Company's Articles of Association provides that until otherwise determined in general meeting, the number of Directors shall not be less than two nor more than ten ".⁷⁷⁰ R45 stated that "The Board is chaired by a Non-Independent Non-Executive Director and currently comprises 13 Directors, 5 of whom are Independent Non-Executive Directors. One of the Independent Non-Executive Directors".⁷⁷¹ R180 highlighted that "the number of directors of the Company shall not be less than two and not more than 18".⁷⁷²

In sum, the result shows that the majority of the companies reported their board of directors. As the best practice, every listed company must have a board of directors to protect and serve the interests of the shareholders According to Bokpin and Onumah's (2009)⁷⁷³, a larger board size has a positive impact on the firm value measured in share price. On the importance of a board, IR1 stated that "*effective management comes from the board and of course the code of good governance part of it*"⁷⁷⁴.

⁷⁶⁹ Golden Pharos Berhad. "Annual Report." (2015). P34.

⁷⁷⁰ Mnrh Holdings Berhad. "Board charter." (2014). P1

⁷⁷¹ Ammb Holdings Berhad, "Annual report." (2015). P40

⁷⁷² Berjaya Auto Berhad, "Board charter." (2015). P1

⁷⁷³ Bokpin, and Onumah. "Corporate governance, ownership structure, cash holdings, and firm value on the Ghana Stock Exchange." *The Journal of Risk Finance* 10, no. 5 (2009): 488-499.

⁷⁷⁴ Aishah Bidin, Companies Commission of Malaysia, interview by author, UKM, Kajang, Selangor, Malaysia, October 21, (2016).

6.3.1.2 Chairman and Chief Executive Officer

The Chairman's primary role is to lead the board and ensure that it is independent, effective and complementary⁷⁷⁵. The CEO primary role is to provide the overall management and leadership of the company and propose the company's strategy to the board. It is the responsibility of both to uphold and promote high standards of integrity and probity within the company and its subsidiaries. To ensure the success of the company, it is essential that the chairman and CEO have a close relationship, based on trust, with the chairman providing support and advice while respecting the importance of the CEO's executive responsibilities.⁷⁷⁶

Table 6.2

Chairman and Chief Executive Officer

Year	2012		2013		2014		2015	
	R	UR	R	UR	R	UR	R	UR
Sectors	No	%	No	%	No	%	No	%
Consumer Products	33	15%	5	2%	35	16%	3	1%
Finance	9	4%	1	0%	10	4%	0	0%
Hotels	1	0%	0	0%	1	0%	0	0%
Industrial Products	54	24%	16	7%	59	26%	11	5%
IPC	2	1%	0	0%	2	1%	0	0%
Mining	0	0%	0	0%	0	0%	0	0%
Plantations	11	5%	2	1%	11	5%	2	1%
Properties	22	10%	5	2%	23	10%	4	2%
REITS	4	2%	1	0%	4	2%	1	0%
SPAC	1	0%	0	0%	1	0%	0	0%
Trading/ Services	41	18%	15	7%	44	20%	12	5%
Total	178	80%	45	20%	189	85%	34	15%

⁷⁷⁵ Van den Berghe, L. A. A., and Tom Baelden. "The complex relation between director independence and board effectiveness." *Corporate Governance: The international journal of business in society* 5, no. 5 (2005): 58-83.

⁷⁷⁶ Kakabadse, Andrew, Nada K. Kakabadse, and Ruth Barratt. "Chairman and chief executive officer (CEO): that sacred and secret relationship". *Journal of Management Development* 25, no. 2 (2006): 134-150.

Table 6.2 presents the function of chairman and chief executive officer of PLCs. It also shows that the number of the companies that reported chairman and chief executive function increased from 178 (80%) in 2012 to 197 (88%) in 2015. As contended by R38, “The Company aims to ensure a balance of power and authority between the Chairman and the CEO with a clear division of responsibility between the running of the Board and the Company’s business respectively.” Also, R98 reported that “The CEO/MD, in association with the Chairman, is accountable to the Board for the achievement of the company goals and the CEO/MD is accountable for the observance of the management limitations”.⁷⁷⁷

Some companies indicated different responsibilities for a chairman and CEO. As stressed by R123,

“The role of the Chairman and Chief Executive Officer ("CEO") are distinct and separated to ensure there is a balance of power and authority with no domination, the separation of the positions promotes accountability and facilitates division of responsibilities between them”.⁷⁷⁸

Some companies highlighted the responsibility of the chairman only. R143 stated that

“The Chairman...responsible for the orderly conduct and function of the Board. The Chairman is appointed from amongst the members of the Board of Directors to lead the Board and is responsible for ensuring the effectiveness of the Board”.

The result indicates that great majority (almost 85%) of the Malaysian companies under study complied with the responsibilities of CEO and chairman, implying that the CEOs and chairman work harmoniously to improve the performance of their

⁷⁷⁷ Bintulu Port Holdings Berhad. “Board charter.” (2013). P10

⁷⁷⁸ Golden Land Berhad. “Board Charter.” (2013). P1

companies so that the stakeholders will be served better by best practices and good earnings⁷⁷⁹. It became clear from the interview with IR2 that “*The executive chairman is responsible for ensuring board effectiveness as well as the conduct of the general meeting...* ”.⁷⁸⁰

6.3.1.3 Board Balance

The board and its committees should have the appropriate balance of skills, experience, independence, and knowledge of the company to enable them to discharge their respective duties and responsibilities effectively. There should be a formal, rigorous and transparent procedure for the appointment of new directors to the board.⁷⁸¹

Table 6.3

Board Balance

Year	2012		2013		2014		2015	
	R	UR	R	UR	R	UR	R	UR
Sectors	No %	No %	No %	No %	No %	No %	No %	No %
Closed-End funds	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Consumer Products	31 14%	7 3%	33 15%	5 2%	31 14%	7 3%	36 16%	2 1%
Finance	10 4%	0 0%	10 4%	0 0%	10 4%	0 0%	10 4%	0 0%
Hotels	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%
Industrial Products	65 29%	5 2%	64 29%	6 2%	65 29%	5 2%	66 30%	4 2%
IPC	2 1%	0 0%	1 0%	1 0%	2 1%	0 0%	2 1%	0 0%
Mining	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Plantations	12 5%	1 0%	12 5%	1 0%	12 5%	1 0%	12 5%	1 0%
Properties	23 10%	4 2%	22 10%	5 2%	23 10%	4 2%	24 11%	3 1%
REITS	4 2%	1 0%	4 2%	1 0%	4 2%	1 0%	5 2%	0 0%
SPAC	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%

⁷⁷⁹ Saleh, Norman Mohd, Takiah Mohd Iskandar, and Mohd Mohid Rahmat. "Earnings management and board characteristics: Evidence from Malaysia." *Jurnal Pengurusan (UKM Journal of Management)* 24 (2005).

⁷⁸⁰ Kelly Kheng, Securities Commission of Malaysia, e-mail message to author, December 8, 2016.

⁷⁸¹ Council, Financial Reporting. "The UK Corporate Governance Code". *London*, September (2012). P6.

Trading/ Services	56 25%	0 0%	55 25%	1 0%	56 25%	0 0%	56 25%	0 0%
Total	205 92%	18 8%	203 91%	20 9%	205 92%	18 8%	213 96%	10 4%

Table 6.3 reports board balance of 223 companies listed on BM over the period 2012 to 2015. It indicates that the number of companies that reported such balance increased from 92% in 2012 to 96% in 2015. On the balance of the board to discharge their respective duties and responsibilities, R30 highlighted that “The Board strives to provide and present a balanced and meaningful assessment of the Group’s financial performance and prospects, primarily through the Annual Report and the quarterly announcement of results”.⁷⁸² R63 also stated the importance of the board balance. “...this balance enables the Board to provide clear and effective leadership to the Company and to bring informed and independent judgment to various aspects of the Company’s strategies and performance”.⁷⁸³ Some companies indicated the appropriate balance of skills and tenure as reported by R70,

“...As it is important also to balance tenure and skills so that the distribution of length of tenure across the Board members represents a reasonable mix of old and new thinking, with diverse skill sets, the recommendation was made to the Board”.⁷⁸⁴

Given the large number (96%) of the companies that reported the board balance, it can be concluded that best practices were at the peak. In this regard, Kadir (2003)⁷⁸⁵ stated that the board of directors is the fulcrum that balances the ownership rights enjoyed by shareholders with the discretion granted to managers to run the business.

⁷⁸² Eupe Corporation Berhad, “Board charter.” (2012). P3

⁷⁸³ G3 Global Berhad. “Annual report.” (2015). P10

⁷⁸⁴ Kian Joo Can Factory Berhad. “Annual report.” (2014). P13

⁷⁸⁵ Ali Abdul Kadir “The Board and the Independent Director: Enhancing Performance and Shareholder Value” Securities Commission (2003).

IR1 highlighted that “the board could decide to have many rules to enable them to discharge their respective duties and responsibilities effectively”⁷⁸⁶.

6.3.1.4 Supply of Information

The board should be supplied in a timely manner with information in a form and of a quality appropriate to enable it to discharge its duties. All directors should receive induction on joining the Board and should regularly update and refresh their skills and knowledge.⁷⁸⁷

Table 6.4

Supply of Information

Year	2012		2013		2014		2015	
	R	UR	R	UR	R	UR	R	UR
Sectors	No %	No %	No %	No %	No %	No %	No %	No %
Closed-End funds	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Consumer Products	34 15%	4 2%	36 16%	2 1%	36 16%	2 1%	38 17%	0 0%
Finance	10 4%	0 0%	10 4%	0 0%	9 4%	1 0%	10 4%	0 0%
Hotels	0 0%	1 0%	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%
Industrial Products	53 24%	17 8%	53 24%	17 8%	58 26%	12 5%	61 27%	9 4%
IPC	2 1%	0 0%	2 1%	0 0%	1 0%	1 0%	2 1%	0 0%
Mining	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Plantations	11 5%	2 1%	11 5%	2 1%	13 6%	0 0%	11 5%	2 1%
Properties	27 12%	0 0%	25 11%	2 1%	27 12%	0 0%	25 11%	2 1%
REITS	4 2%	1 0%	4 2%	1 0%	4 2%	1 0%	4 2%	1 0%
SPAC	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%
Trading/ Services	49 22%	7 3%	52 23%	4 2%	52 23%	4 2%	54 24%	2 1%
Total	191 86%	32 14%	195 87%	28 13%	202 91%	21 9%	207 93%	16 7%

⁷⁸⁶ Aishah Bidin, Companies Commission of Malaysia, interview by author, UKM, Kajang, Selangor, Malaysia, October 21, (2016).

⁷⁸⁷ Arun, Thankom, and John Turner, eds. “Corporate Governance and Development: Reform, Financial Systems and Legal Frameworks”. *Edward Elgar Publishing*, (2009).

Table 6.4 shows that the percentage of the companies that disclosed information increased from 86% in 2012 to 93% in 2015. On the timely and effective communication with investors, R3 highlighted that “The Board provides timely and accurate disclosure of all material information of the Group to the shareholders and stakeholders. Information is disseminated through announcements made to Bursa...”.⁷⁸⁸ Also, R42 stressed that “The Board and the respective Board Committees are supplied with and granted access to timely information which allows them to discharge their responsibilities effectively and efficiently”.⁷⁸⁹ The directors should also be sent an agenda at the board meeting. R31 stated that “The Directors are sent an agenda and a full set of Board papers providing complete, adequate and timely information before the Board meetings, to give Directors time to deliberate on the issues raised at the meetings”.⁷⁹⁰ Likewise, R135 reported the same. “The directors are provided with appropriate reports and information in advance of each meeting regarding the business operations and financial affairs of the Company”.⁷⁹¹

It is concluded that most of the companies supplied timely and appropriate information to enable the board to discharge its duties effectively. Timely provision of information serves as the impetus for active participation and effective decision making that will lead to the overall and improved companies’ best practices⁷⁹². IR1 said that “... *companies should disclose true information relating to their situation and if the companies hide or give incorrect information then up to the regulatory*

⁷⁸⁸ Emico Holdings Berhad, “Annual report.” (2015). P29.

⁷⁸⁹ Aeon Credit Service (M) Berhad. “Annual report.” (2014). P28.

⁷⁹⁰ Sin Heng Chan (Malaya) Berhad. “Annual report.” (2014).P9.

⁷⁹¹ Fajarbaru Builder Group Bhd. “Board charter.” (2013). P1.

⁷⁹² Salim, Mohammad Rizal. “Company law reform in Malaysia: The role and duties of directors.” (2009).

authority to check that”⁷⁹³. IR2 also highlighted that “The law state clearly that the companies must disclose, give true and fair information relating to the company performance”.⁷⁹⁴

6.3.1.5 Appointment of the Board

A director is appointed in the Annual General Meeting (AGM) and can hold the post till the next AGM. However, the articles of the company can provide for the appointment of permanent directors in the articles of the company. In the case of a public company or its subsidiaries, only one-third of the directors can be appointed as permanent directors; the rest of the directors must retire by rotation at the AGM of the company.⁷⁹⁵

Table 6.5

Appointment of the Board

Year	2012		2013		2014		2015	
	R	UR	R	UR	R	UR	R	UR
Sectors	No	%	No	%	No	%	No	%
Closed-End funds	0	0%	0	0%	0	0%	0	0%
Consumer Products	35	16%	33	15%	34	15%	38	17%
Finance	8	4%	10	4%	10	4%	8	4%
Hotels	1	0%	1	0%	1	0%	1	0%
Industrial Products	66	30%	68	30%	68	30%	69	31%
IPC	2	1%	2	1%	2	1%	2	1%
Mining	0	0%	0	0%	0	0%	0	0%
Plantations	11	5%	12	6%	12	6%	13	6%
Properties	25	11%	26	12%	26	12%	26	12%
REITS	5	2%	4	2%	4	2%	4	2%
SPAC	1	0%	1	0%	1	0%	1	0%
Trading/ Services	55	25%	55	25%	55	25%	55	25%

⁷⁹³ Aishah Bidin, Companies Commission of Malaysia, interview by author, UKM, Kajang, Selangor, Malaysia, October 21, 2016.

⁷⁹⁴ Kelly Kheng, Securities Commission of Malaysia, e-mail message to author, December 8, 2016.

⁷⁹⁵ Sarkar, Jayati, Subrata & Kaustav "Board of directors and opportunistic earnings management: Evidence from India". *Journal of Accounting, Auditing & Finance* 23, no. 4 (2008): 517-551.

Total	209 94%	14 6%	212 95%	11 5%	213 96%	10 4%	217 97%	6 3%
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Table 6.5 shows the appointment of the board of directors within four years. It shows an increase in the percentage of the companies that reported the appointment of the board from 94% in 2012 to 95%, 96% and 97% in the years 2013, 2014 and 2015 respectively. The appointment of any new director is a matter for consideration of the full board upon appropriate recommendation from the nomination committee. R16 highlighted that “The Board has delegated the Nomination Committee (“NC”) the responsibility for considering the appointment of Directors, identifying and selecting potential new directors and proposing to the Board the appointment of new Directors”.⁷⁹⁶ In a similar vein, R106 stated that “For the recruitment or appointment of new Directors, the Nominating Committee has its review criteria that need to be met before making recommendations to the Board”.⁷⁹⁷

Additionally, the guidelines of the companies also showed that the whole board should arrange the appointment. R193 stated that “The appointment of new Directors is undertaken by the Board as a whole”.⁷⁹⁸ Similarly, R207 remarked, “Appointments to the Board are the responsibility of the full Board on the recommendation of the Nomination Committee”.⁷⁹⁹

The result shows a high number of the selected companies that reported an appointment of the board. Goo and Carver (2003)⁸⁰⁰ recommended that companies need to have a proper process for appointment and removal of independent directors such as having at least one-third of the independent directors appointed by

⁷⁹⁶ China Ouhua Winery Holdings Limited. “Annual report.” (2014). P25.

⁷⁹⁷ Choo Bee Metal Industries Bhd. “Annual report.” (2014). P19

⁷⁹⁸ Dutch Lady Milk Industries Berhad. “Annual report.” (2015). P22

⁷⁹⁹ Gamuda Berhad. “Annual report.” (2015). P187

⁸⁰⁰ Goo, S. H., and A. R. Carver. Corporate Governance: The Hong Kong Debate. Sweet & Maxwell Asia. (2003).

independent shareholders rather than having all being appointed by the management or the controlling shareholders at present.

6.3.1.6 Board Performance

CA 2016 in section 211 specifies that the function of the board is to monitor and ensure the corporation demonstrates reasonable progress toward desired ends and reasonable compliance with policy guiding means. The board's focus is at the broadest level of policy informed by the ownership values⁸⁰¹. Performance is defined as “the term used to refer to activities, tools, processes, and programs that companies create or apply to manage the performance of individual employees, teams, departments, and other organisational units within their organisational influence”.⁸⁰²

Table 6.6

Board Performance

Year	2012		2013		2014		2015	
	R	UR	R	UR	R	UR	R	UR
Sectors	No %	No %	No %	No %	No %	No %	No %	No %
Closed-End funds	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Consumer Products	37 17%	1 0%	37 17%	1 0%	37 17%	1 0%	38 17%	0 0%
Finance	10 4%	0 0%	8 4%	2 1%	10 4%	0 0%	10 4%	0 0%
Hotels	0 0%	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%	1 0%
Industrial Products	69 31%	1 0%	69 31%	1 0%	69 31%	1 0%	70 31%	0 0%
IPC	2 1%	0 0%	1 0%	1 0%	2 1%	0 0%	2 1%	0 0%
Mining	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Plantations	11 5%	2 1%	11 5%	2 1%	11 5%	2 1%	11 5%	2 1%
Properties	22 10%	5 2%	23 10%	4 2%	22 10%	5 2%	25 11%	2 1%
REITS	5 2%	0 0%	5 2%	0 0%	5 2%	0 0%	5 2%	0 0%
SPAC	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%

⁸⁰¹ Carver, Miriam, and Bill Charney. “The board member's playbook: using policy governance to solve problems, make decisions, and build a stronger board”. John Wiley & Sons, 2004.

⁸⁰² Kueng, Peter. "Process performance measurement system: a tool to support process-based organizations". *Total Quality Management* 11, no. 1 (2000): 67-85.

Trading/ Services	54 24%	2 1%	54 24%	2 1%	54 24%	2 1%	56 25%	0 0%
Total	211 95%	12 5%	209 94%	14 6%	211 95%	12 5%	218 98%	5 2%

Table 6.5 displays the board of directors' performance. The result shows that 95% of the companies disclosed the performance of their board in 2012 while 98% did so in 2015. R16 stressed that "The Board promotes good CG in the application of sustainability practices throughout the Company, the benefits of which are believed to translate into better corporate performance".⁸⁰³ Also, the board must present clear financial performance to BM As highlighted by R56, "The Board strives to present a clear, balanced, explanation and evaluation of the Group's financial performance and prospects in each quarterly announcement of the Group's results to Bursa Malaysia".⁸⁰⁴

Several companies also showed the responsibilities of the board for the company performance. R89 stated, "The Board takes full responsibilities for the overall performance of the Group by providing leadership and direction as well as management supervision".⁸⁰⁵ Also, R143 highlighted that

"The Board is accountable and responsible for the performance and affairs of the Company and is committed to providing the leadership in enhancing board effectiveness through strengthening our Board's composition and reinforcement of independence".⁸⁰⁶

Since only a few companies did not report the board performance, the result suggests that the board had performed its duties and complied with the best practices as spelt

⁸⁰³ China Ouhua Winery Holdings Limited. "Annual report." (2014). P24.

⁸⁰⁴ Denko Industrial Corporation Berhad. "Annual report." (2014). P24.

⁸⁰⁵ Thong Guan Industries Berhad. "Annual report." (2014). P9

⁸⁰⁶ Land & General Berhad. "Board charter." (2014). P1

out in the companies' guidelines and annual report. In this regard, Brown (2007)⁸⁰⁷ showed that board development practices of recruitment and training are relevant to ensure high skills for the board members and these will lead to the higher performance of the company in the future. Moreover, IR2 attested that *"In my legal view I assume that the board is responsible for presenting a fair and balanced Information of the company financial position and performance"*.⁸⁰⁸

6.3.1.7 Disclosure of Information in Respect of Directors

Recommendation 7.1 of the MCCG states that the board should ensure the company has appropriate corporate disclosure policies and procedures. Transparency and disclosure are essential elements of a robust corporate governance framework as they provide the base for informed decision-making by shareholders, stakeholders and potential investors in relation to capital allocation, corporate transactions and financial performance monitoring⁸⁰⁹. The timely availability of quality and accurate information plus the reporting of financial performance are key facets of investor protection and market confidence.⁸¹⁰

⁸⁰⁷ Brown, William A. "Board development practices and competent board members: Implications for performance." *Nonprofit Management and Leadership* 17, no. 3 (2007): 301-317.

⁸⁰⁸ Kelly Kheng, Securities Commission of Malaysia, e-mail message to author, December 8, 2016.

⁸⁰⁹ Fung, Benjamin. "The demand and need for transparency and disclosure in corporate governance." *Universal Journal of Management* 2, no. 2 (2014): 72-80.

⁸¹⁰ Hermalin, Benjamin E., and Michael S. Weisbach. "Information disclosure and corporate governance". *The Journal of Finance* 67, no. 1 (2012): 195-233.

Table 6.7

Disclosure of Information in Respect of Directors

Year	2012		2013		2014		2015	
	R	UR	R	UR	R	UR	R	UR
Sectors	No %	No %	No %	No %	No %	No %	No %	No %
Closed-End funds	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Consumer Products	35 16%	3 1%	37 17%	1 0%	38 17%	0 0%	38 17%	0 0%
Finance	9 4%	1 0%	9 4%	1 0%	10 4%	0 0%	10 4%	0 0%
Hotels	0 0%	1 0%	0 0%	1 0%	1 0%	0 0%	0 0%	1 0%
Industrial Products	61 27%	9 4%	63 28%	7 3%	63 28%	7 3%	66 30%	4 2%
IPC	2 1%	0 0%	1 0%	1 0%	2 1%	0 0%	2 1%	0 0%
Mining	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Plantations	12 5%	1 0%	12 5%	1 0%	13 6%	0 0%	12 5%	1 0%
Properties	24 11%	3 1%	23 10%	4 2%	24 11%	3 1%	27 12%	0 0%
REITS	4 2%	1 0%	4 2%	1 0%	4 2%	1 0%	4 2%	1 0%
SPAC	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%
Trading/ Services	53 23%	3 1%	54 24%	2 1%	55 25%	1 0%	55 25%	1 0%
Total	201 90%	22 10%	204 91%	19 9%	211 95%	12 5%	215 96%	8 4%

Table 6.7 illustrates the disclosure of information by directors. The number of companies that reported disclosure of information grew from 201 (90%) in 2012 to 215 (96%) in 2015. On the need to make adequate and timely disclosure to its shareholders either through the company website, annual report or other channels, R5 stressed that “the Board has leveraged on information technology in line with the Corporate Disclosure Policy....the Company has made available on its website, <http://www.goldis.com>”.⁸¹¹ Also, R66 stated the same “The Company’s corporate website has a clearly dedicated investors’ link which features the corporate information prominently...”.⁸¹² Some companies indicated the importance of having a corporate disclosure policy. R78 stressed that

⁸¹¹ Goldis Berhad. “Annual report.” (2014). P21.

⁸¹² Emas Kiara Industries Berhad. “Board charter.” (2013). P1.

“The Board is aware of the need to establish corporate disclosure policies and procedures to enable comprehensive, accurate and timely disclosures relating to the Company and its subsidiaries to the regulators, shareholders and stakeholders”.⁸¹³

Since almost all of the companies reported corporate disclosure policies and procedures, it can be concluded that the companies had kept the shareholders updated about the relevant details about the directors, indicating the level of best practices by the companies. IR1 noted that *“If the information is important, vital and relevant to ensure that the investors can make a decision to invest or not invest, then that information should be included”*⁸¹⁴. Also, IR2 confirmed that *“depending on how important this information is and whether it could affect the investors while they are making their decision. If that is the case, then they must disclose the information”*.⁸¹⁵

6.3.1.8 Access to Information and Independent Advice

Most of the governance regulations state that every director should have full and unrestricted access to information within the group. Where required, the board and its committees may seek independent professional advice, the cost of which is borne by the company⁸¹⁶. The board may also seek advice from the management or request further explanation, information or update on any aspect of the group’s operations or business concerns. Also, the directors have to have full and unrestricted access to the advice and dedicated support services of the company secretary.⁸¹⁷

⁸¹³ Sealink International Berhad. “Annual report.” (2015). P28.

⁸¹⁴ Aishah Bidin, Companies Commission of Malaysia, interview by author, UKM, Kajang, Selangor, Malaysia, October 21, 2016.

⁸¹⁵ Kelly Kheng, Securities Commission of Malaysia, e-mail message to author, December 8, 2016.

⁸¹⁶ Committee on the Financial Aspects of Corporate Governance. Report of the committee on the financial aspects of corporate governance: the code of best practice. Gee, (1992).

⁸¹⁷ Ibid

Table 6.8

Access to Information and Independent Advice

Year	2012		2013		2014		2015	
	R	UR	R	UR	R	UR	R	UR
Sectors	No %	No %	No %	No %	No %	No %	No %	No %
Closed-End funds	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Consumer Products	34 15%	4 2%	38 17%	0 0%	38 17%	0 0%	38 17%	0 0%
Finance	10 4%	0 0%	9 4%	1 0%	10 4%	0 0%	10 4%	0 0%
Hotels	0 0%	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%	1 0%
Industrial Products	67 30%	3 1%	67 30%	3 1%	67 30%	3 1%	70 31%	0 0%
IPC	2 1%	0 0%	1 0%	1 0%	2 1%	0 0%	2 1%	0 0%
Mining	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Plantations	10 4%	3 1%	12 5%	1 0%	10 4%	3 1%	11 4%	2 1%
Properties	24 11%	3 1%	24 11%	3 1%	24 11%	3 1%	27 12%	0 0%
REITS	5 2%	0 0%	4 2%	1 0%	5 2%	0 0%	5 2%	0 0%
SPAC	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%
Trading/ Services	56 25%	0 0%	55 25%	1 0%	56 25%	0 0%	56 25%	0 0%
Total	209 94%	14 6%	211 95%	12 5%	209 94%	14 6%	220 99%	3 1%

Table 6.8 illustrates access to information and independent advice. The result show s that 94% of the companies reported access to information while 95%, 94% and 99% did so in 2013, 2014 and 2015 respectively. On the need for directors to have unrestricted access to the advice and services of the company secretary to enable them to discharge their duties effectively and assist the board in making informed decisions, R112 highlighted that “Directors should have access to the advice and services of the Secretary, who is responsible to the board to ensure proper procedures, rules and regulations are adhered to”.⁸¹⁸ Other companies stated the same. R124 remarked, “All Directors (Executive and Non-Executive) have the same right of access to information relevant to the furtherance of their duties and

⁸¹⁸ Woodlandor Holdings Berhad. “Board Charter.” (2013). P6

responsibilities as Directors of the Company”.⁸¹⁹ Furthermore, some companies indicated additional accessibility for the board of directors. R189 stated that

“The Board has complete and unrestricted access to the advice of the Company Secretary to enable them to discharge their duties effectively. In discharging their duties, the Board also has access to professional advice, from time to time and if necessary, at the Company’s expense”.⁸²⁰

The result, in general, shows high adherence to the best practices as required by the companies’ internal policies. According to Wan-Hussin (2009)⁸²¹, investors can access the information as per their requirement and hence, less demands to disclose the information to the outsiders.

6.3.2 Directors Remuneration

Remuneration is defined as “payment or compensation received for services or employment and includes base salary, any bonuses and any other economic benefits that an employee or executive receives during employment”.⁸²² Three items of directors’ remuneration were analysed, i.e., remuneration procedure, the level of remuneration, and disclosure of remuneration.

⁸¹⁹ United Plantations Berhad. “Board charter.” (2013). P17.

⁸²⁰ Sapura Energy Berhad “Annual report.” (2015). P75.

⁸²¹ Wan-Hussin, Wan Nordin. “The impact of family-firm structure and board composition on corporate transparency: Evidence based on segment disclosures in Malaysia.” *The International Journal of Accounting* 44, no. 4 (2009): 313-333.

⁸²² Study Group on Directors' Remuneration, and Sir Richard Greenbury. “Directors' remuneration”. London: Gee, (1995).

6.3.2.1 Remuneration Procedure

Remuneration committee is a professional committee under the board of directors. The major responsibility of the committee is to set out the remuneration policy and framework of the company's directors and senior management and remuneration standard, approve remuneration proposal of directors and senior management, and consider the appraisal of directors and senior management performance.⁸²³

Table 6.9

Remuneration Procedure

Year	2012		2013		2014		2015	
	R	UR	R	UR	R	UR	R	UR
Sectors	No	%	No	%	No	%	No	%
Closed-End funds	0	0%	0	0%	0	0%	0	0%
Consumer Products	33	15%	5	2%	33	15%	38	17%
Finance	8	4%	2	1%	10	4%	8	4%
Hotels	1	0%	0	0%	1	0%	1	0%
Industrial Products	67	30%	3	1%	68	30%	69	31%
IPC	1	0%	2	1%	2	1%	2	1%
Mining	0	0%	0	0%	0	0%	0	0%
Plantations	13	6%	12	6%	12	6%	13	6%
Properties	27	12%	26	12%	26	12%	26	12%
REITS	4	2%	4	2%	4	2%	4	2%
SPAC	1	0%	1	0%	1	0%	1	0%
Trading/ Services	54	24%	55	25%	55	25%	55	25%
Total	209	94%	14	6%	212	95%	217	97%

Table 6.9 shows that 209 (94%) companies reported the remuneration procedure while the rest of the companies did not. The selected guidelines displayed that the board intended to enhance the corporate performance by adopting remuneration policy. R26 stated that “The Board will consider for adoption a remuneration policy

⁸²³ Chambers, Andrew D. "Audit Committees: practice, rules and enforcement in the UK and China". *Corporate governance: An international review* 13, no. 1 (2005): 92-100.

established by the Remuneration Committee designed to enhance corporate and individual performance”.⁸²⁴ Also, R93 stated that

“The Board has implemented the Directors’ Remuneration policy which prescribes the fundamental principles of remuneration and acknowledges the various phases that the Company will undergo in its evolution and growth process”.⁸²⁵

Moreover, some companies indicated different responsibilities of the remuneration committee, as highlighted by R102, “The remuneration of the Executive Director is structured so as to link rewards to corporate and individual performance to attract, retain and motivate the Executive Directors to run the Group successfully”.⁸²⁶

The result showed that the majority of companies under study declared the remuneration of their directors, and which signifies a high level of best practices by the companies. According to Talha (2009)⁸²⁷, better remuneration serves as a great motivating factor for directors to perform their duties well. Secondly, scholars are also recommending that directors’ remuneration should be linked to company performance. On the importance of remuneration, IR1 highlighted that “*The Board consider for adoption a remuneration policy to enhance companies’ implementation*”⁸²⁸.

⁸²⁴ Ekovest Berhad. “Board charter.” (2015). P12.

⁸²⁵ Hibiscus Petroleum Berhad. “Annual report.” (2013). P52.

⁸²⁶ Muar Ban Lee Group Berhad. “Annual report.” (2014). P18.

⁸²⁷ Talha, Mohammad, Abdullah Sallehuddin Abdullah Salim, and Shukor Masoud. "A study on directors' remuneration and board committee in Malaysia." *Journal of Modern Accounting and Auditing* 5, no.1 (2009): 34.

⁸²⁸ Aishah Bidin, Companies Commission of Malaysia, interview by author, UKM, Kajang, Selangor, Malaysia, October 21, 2016..

6.3.2.2 The Level of Remuneration

The objective of the policy on executive remuneration is to ensure that the levels of remuneration are sufficient to attract, retain and motivate directors to run the company successfully, and incentives are provided as appropriate to encourage enhanced performance and to reward, in a fair and responsible manner, directors' individual contributions to the success of the company.⁸²⁹

Table 6.10

The Level of Remuneration

Year	2012		2013		2014		2015	
	R	UR	R	UR	R	UR	R	UR
Sectors	No	%	No	%	No	%	No	%
Closed-End funds	0	0%	0	0%	0	0%	0	0%
Consumer Products	31	14%	7	3%	32	14%	6	3%
Finance	6	3%	4	2%	8	4%	2	1%
Hotels	10	4%	3	1%	12	5%	1	0%
Industrial Products	63	28%	7	3%	65	29%	5	2%
IPC	1	0%	1	0%	2	1%	0	0%
Mining	0	0%	0	0%	0	0%	0	0%
Plantations	10	4%	3	1%	12	5%	1	0%
Properties	26	12%	1	0%	25	11%	2	1%
REITS	3	1%	2	1%	3	1%	3	1%
SPAC	1	0%	0	0%	1	0%	0	0%
Trading/ Services	52	23%	4	2%	53	24%	3	1%
Total	193	87%	30	13%	198	89%	25	11%
					206	92%	17	8%
							209	94%
							14	6%

Table 6.10 illustrates the level of remuneration. It shows that the number of the companies that reported the level of the remuneration continued to rise between 2012 and 2015. In this context, R7 stated that “The levels of remuneration should be

⁸²⁹ Conyon, Martin J., and Simon I. Peck. "Board control, remuneration committees, and top management compensation". *Academy of Management Journal* 41, no. 2 (1998): 146-157.

sufficient to attract and retain the directors needed to run the company successfully”.⁸³⁰

Moreover, some companies reported the level of responsibilities taken by the non-executive directors. As indicated by R72, “The level of remuneration shall reflect the experience and level of responsibilities undertaken by the non-executive directors concerned and is determined by the Board as a whole”.⁸³¹ Some companies referred the responsibilities of the remuneration to other regulations. As stated by R97, “Directors’ remuneration is presented in full compliance with the listing requirements of the Bursa Malaysia Securities Bhd in preference to the best practices of the Code”.⁸³²

Based on the result, it can be concluded that a large number of the companies complied with the best practice fully. In this regard, Mustapha (2012)⁸³³ suggested the need for companies to establish a formal and transparent procedure for developing policy on company’s executive remuneration and for fixing remuneration packages for each director. Similarly, IR1 stressed that *“the level of remuneration will enhance the level of duties conducted by the non-executive directors and set out by the board as a whole”*⁸³⁴.

⁸³⁰ Apex Healthcare Berhad. “Board charter.” (2013). P1.

⁸³¹ Central Industrial Corporation Berhad. “Annual report.” (2014). P22.

⁸³² Minho (M) Berhad. “Annual report.” (2014). P17.

⁸³³ Mustapha, Mohd Zulkhairi. “Determinants of executive directors’ remuneration among Malaysian public listed companies.” PhD diss., Cardiff University, (2012).

⁸³⁴ Aishah Bidin, Companies Commission of Malaysia, interview by author, UKM, Kajang, Selangor, Malaysia, October 21, 2016.

6.3.2.3 Disclosure of Remuneration

The Code emphasises disclosure of whether the remuneration connects with performance and the details of the remuneration of each director. However, the listing requires companies to disclose information on aggregate remuneration of directors with categorization into appropriate components distinguishing between the executive and non-executive directors⁸³⁵.

Table 6.11

Disclosure of Remuneration

Year	2012		2013		2014		2015	
	R	UR	R	UR	R	UR	R	UR
Sectors	No %	No %	No %	No %	No %	No %	No %	No %
Closed-End funds	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Consumer Products	21 9%	17 8%	26 12%	12 5%	31 14%	7 3%	32 14%	6 3%
Finance	2 1%	8 4%	5 2%	5 2%	5 2%	5 2%	6 3%	4 2%
Hotels	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%
Industrial Products	56 25%	14 6%	58 26%	12 5%	61 27%	9 4%	62 28%	8 4%
IPC	1 0%	1 0%	1 0%	1 0%	2 1%	0 0%	2 1%	0 0%
Mining	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Plantations	12 5%	1 0%	12 5%	1 0%	12 5%	1 0%	13 6%	0 0%
Properties	26 12%	1 0%	25 11%	2 1%	27 12%	0 0%	26 12%	1 0%
REITS	3 1%	2 1%	3 1%	2 1%	4 2%	1 0%	3 1%	2 1%
SPAC	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%
Trading/ Services	54 24%	2 1%	54 24%	2 1%	53 24%	3 1%	54 24%	2 1%
Total	177 79%	46 21%	186 83%	37 17%	197 88%	26 12%	200 90%	23 10%

Table 6.11 displays that the disclosure of remuneration committee was found to be well represented by PLCs. In 2012 21% of the companies did not report disclosure of remuneration. In 2013, 17% did not do so. In 2014, 12% and in 2015 10% did not do

⁸³⁵ Aripin, Norhani, Basariah Salim, Hasnah Kamardin, and Noriah Che Adam. "The communication of director's remuneration". *Procedia-Social and Behavioral Sciences* 65 (2012): 321-326.

so even though the companies' guidelines' indicated the disclosure of the remuneration committee. R4 stated that

“The Board has considered the disclosure of detailed directors' remuneration on individual director basis and is of the opinion that the transparency and accountability in respect of the directors' remuneration have been appropriately dealt with by the “band disclosure” as required by the MMLR”.⁸³⁶

However, some companies decided not to disclose the remuneration of individual directors. R24 stated that

“The Company opt not to disclose the remuneration of individual directors as the Company believes that this information will not add significantly to the understanding and evaluation of the Company's governance”.⁸³⁷

Otherwise, R154 indicated that “The Board is of the view that the disclosure of remuneration by appropriate components and bands are sufficient to meet the objectives set out in the Listing Requirements of Bursa Securities”.⁸³⁸

Based on the result, it can be concluded that a high level of remuneration information in the annual reports and guidelines was shown by the companies. According to Abdul Rahman et al. (2005)⁸³⁹, most public listed companies in Malaysia are still shying away from disclosing the details of the compensation. Also, IR1 stated that

⁸³⁶ Mintye Industries Bhd. “Annual report.” (2015). P18.

⁸³⁷ Asia Brands Berhad. “Annual report.” (2014). P22.

⁸³⁸ Gunung Capital Berhad. “Annual report.” (2014). P22.

⁸³⁹ Abdul Rahman, et al. “Directors Remuneration in Malaysian Public Listed Firms”. *Presented at the Conference on Scientific and Social Research, Primula Beach Resort, Kuala Trengganu, Malaysia.* (2005).

“Listed companies must ensure transparent disclosure of remuneration of Directors during the annual report”⁸⁴⁰.

6.3.3 Relation with Shareholders

The companies’ best practice indicated that the board maintains an effective communications policy that enables the board and the management to communicate effectively with its shareholders and the public. The policy effectively interprets the operations of the group to the shareholders and accommodates feedback from shareholders, which are factored into the group's business decision.⁸⁴¹ This section analyses the annual general meetings, communication with a shareholder, material transaction, and declaration of interest.

6.3.3.1 Annual General Meetings (AGM)

An AGM is defined as “a mandatory, public yearly gathering of publicly traded company's executives, directors and interested shareholders”. These meetings may be required by law or by the constitution, charter, or by-laws governing the body.⁸⁴² However, It is a key forum where shareholders and directors can meet together. The shareholders also can obtain information and forward questions to directors regarding the affairs of the respective company. AGMs are important annual highlights and shareholders need to be knowledgeable of their companies.⁸⁴³

⁸⁴⁰ Aishah Bidin, Companies Commission of Malaysia, interview by author, UKM, Kajang, Selangor, Malaysia, October 21, 2016.

⁸⁴¹ Ertimur, Y., Ferri, F., & Stubben, S. R. "Board of directors' responsiveness to shareholders: Evidence from shareholder proposals". *Journal of Corporate Finance* 16, no. 1 (2010): 53-72.

⁸⁴² Olibe, Kingsley O. "The information content of annual general meetings: a price and trading volume analysis". *Journal of International Accounting, Auditing and Taxation* 11, no. 1 (2002):19-37.

⁸⁴³ Salin, Ahmad Saiful Azlin Puteh, Rashidah Abdul Rahman, Normah Omar, Wee Shu Hui, and Aida Hazlin Ismail. "Disclosure on annual general meetings by Malaysian public listed companies." In *Proceeding of 2010 International Conference on Business and Economics Research*. Kuala Lumpur: IACSIT Press. 2010.

Table 6.12

Annual General Meetings

Year	2012		2013		2014		2015	
	R	UR	R	UR	R	UR	R	UR
Sectors	No %	No %	No %	No %	No %	No %	No %	No %
Closed-End funds	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Consumer Products	37 17%	1 0%	38 17%	0 0%	38 17%	0 0%	38 17%	0 0%
Finance	10 4%	0 0%	10 4%	0 0%	10 4%	0 0%	10 4%	0 0%
Hotels	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%
Industrial Products	69 31%	1 0%	68 30%	2 1%	68 30%	2 1%	68 30%	2 1%
IPC	2 1%	0 0%	2 1%	0 0%	2 1%	0 0%	2 1%	0 0%
Mining	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Plantations	13 6%	0 0%	12 5%	1 0%	13 6%	0 0%	13 6%	0 0%
Properties	25 11%	2 1%	26 12%	1 0%	27 12%	0 0%	27 12%	0 0%
REITS	5 2%	0 0%	5 2%	0 0%	4 2%	1 0%	4 2%	1 0%
SPAC	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%
Trading/ Services	56 25%	0 0%	55 25%	1 0%	55 25%	1 0%	55 25%	1 0%
Total	219 98%	4 2%	218 98%	5 2%	219 98%	4 2%	219 98%	4 2%

Table 6.12 shows annual general meetings of listed companies in BM. The result shows that 98% of the companies held AGM during the four years. According to R28, “Annual General Meeting (AGM) shall be held once a year and the attendees shall be all Directors and key senior executives”.⁸⁴⁴ Moreover, R9 reported that “The Board shall meet at least four (4) times a year and with additional meetings convened as the need arises”.⁸⁴⁵ Also, R123 stated that “The Board shall conduct at least five (5) scheduled meetings annually with additional meetings to be convened as and when necessary”.⁸⁴⁶

Furthermore, the board should take reasonable steps to encourage shareholder participation at general meetings. R103 disclosed that “At the AGM, the Executive

⁸⁴⁴ Coastal Contracts Bhd, “Board charter.” (2015). P1

⁸⁴⁵ Asia File Corporation Bhd, “Board charter”. P2.

⁸⁴⁶ Golden Land Berhad. “Board charter.” (2013). P1.

Chairperson shall inform shareholders that they are encouraged to participate and are given the opportunity to raise questions or seek more information on the Company”.⁸⁴⁷ Also, R141 stated that “The Annual General Meeting provides an appropriate forum for the shareholders to participate in questions and answers sessions”.⁸⁴⁸

The result showed that the companies implemented a high level of best practices of their guidelines and annual reports. The BMLR in section 9.19 stipulates that companies must ensure all notices convening general meetings contain sufficient information to enable members to decide whether to attend the meeting or not. Our interview with IR1 underscored that when he said that “*the duty of the corporate issuer is to fill in the form, pay the porches, attend the general meeting and vote during the general meeting*”⁸⁴⁹. IR2 highlighted that “*In my opinion that depends on the company to state how many meetings it should hold during the year*”.⁸⁵⁰

6.3.3.2 Communication with Shareholders

The MCCG and the guidelines of the companies highlighted that the board is committed to promoting effective and open communication with all shareholders and ensuring consistency and clarity of disclosure at all times. That is, the responsibility of the board is to ensure that the company has in place a policy to enable effective communication with its shareholders and other stakeholders.⁸⁵¹

Table 6.13

⁸⁴⁷ Caely Holdings Bhd. “Annual report.” (2014). P19.

⁸⁴⁸ Malaysia Pacific Corporation Berhad. “Annual report.” (2014). P21.

⁸⁴⁹ Aishah Bidin, Companies Commission of Malaysia, interview by author, UKM, Kajang, Selangor, Malaysia, October 21, 2016.

⁸⁵⁰ Kelly Kheng, Securities Commission of Malaysia, e-mail message to author, December 8, (2016).

⁸⁵¹ Argenti, Paul. “Corporate Communication”. McGraw-Hill Higher Education, (2012).

Communication with Shareholder

Year	2012		2013		2014		2015	
	R	UR	R	UR	R	UR	R	UR
Sectors	No %	No %	No %	No %	No %	No %	No %	No %
Closed-End funds	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Consumer Products	37 17%	1 0%	37 17%	1 0%	37 17%	1 0%	38 17%	0 0%
Finance	10 4%	0 0%	10 4%	0 0%	10 4%	0 0%	10 4%	0 0%
Hotels	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%
Industrial Products	66 30%	4 2%	68 30%	2 1%	66 30%	4 2%	68 30%	2 1%
IPC	2 1%	0 0%	2 1%	0 0%	2 1%	0 0%	1 0%	1 0%
Mining	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Plantations	12 5%	1 0%	12 5%	1 0%	12 5%	1 0%	12 5%	1 0%
Properties	23 10%	4 2%	24 11%	3 1%	23 10%	4 2%	27 12%	0 0%
REITS	4 2%	1 0%	4 2%	1 0%	4 2%	1 0%	4 2%	1 0%
SPAC	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%
Trading/ Services	54 24%	2 1%	54 24%	2 1%	54 24%	2 1%	56 25%	0 0%
Total	210 94%	13 6%	213 96%	10 4%	210 94%	13 6%	218 98%	5 2%

Table 6.13 shows communication with shareholders of the companies listed in BM. It also shows that 210 (94%) companies reported communication with shareholders in 2012. The number increased to 218 (98%) in 2015. The companies' best practice indicated that the Board should implement effective communication with shareholders to supply information to shareholders. R15 disclosed that

“The Board will ensure that the General Meetings of the Company are conducted in an efficient manner and serve as a model in shareholders' communications. These include the supply of comprehensive and timely information to shareholders”.⁸⁵²

Also, R192 stated that “The Board is committed to providing shareholders and investors accurate, useful and timely information about the Company, its business

⁸⁵² Wang-Zheng Berhad. “Board charter.” (2010). P1.

and its activities”.⁸⁵³ Likewise, there should be a channel to reach all shareholders of the company to disseminate timely information. R89 reported that “The Committee shall be able to convene meetings with the external auditors, shall have direct communication channels with the internal and external auditors, and with the management of the Group whenever deemed necessary”.⁸⁵⁴

Moreover, the Company should disclose the policy and methodology for communication with shareholders. On this, R75 highlighted that “The Board shall maintain... communication policy which encourages shareholders’ participation at general meetings and promotes effective communication with shareholders, stakeholders and the public”.⁸⁵⁵

The result demonstrated that the companies under study communicated greatly with their shareholders to ensure clarity of disclosure and best practice in the companies’ annual reports and guidelines. However, according to Fenwick (2016)⁸⁵⁶, preemption rights in company law statutes give all shareholders in a company the right to be offered proportionally any newly issued shares before the shares are offered to either non-shareholders or one or more of the existing shareholders. In line with this, IR2 indicated that *“The best way for the companies to communicate with their public investors by the annual general meeting as well as the company annual report”*.⁸⁵⁷

⁸⁵³ Majuperak Holdings Berhad. “Annual report.” (2015). P29.

⁸⁵⁴ Thong Guan Industries Berhad, “Annual report.” (2014). P19.

⁸⁵⁵ SKP Resources Bhd. “Annual report.” (2015). P21.

⁸⁵⁶ Fenwick, Mark, and Erik PM Vermeulen. “Disclosure of beneficial ownership after the panama papers” (2016).

⁸⁵⁷ Kelly Kheng, Securities Commission of Malaysia, e-mail message to author, December 8, 2016.

6.3.3.3 Major and Material Transactions

Material transaction means any sale, purchase, exchange, loan or extension of credit, or investment; any dividend or distribution; any reinsurance treaty or risk-sharing arrangement; any management contract, service contract or cost-sharing arrangement; any merger with or acquisition of control of any corporation; or any other transaction or agreement that the Commission by order, rule or regulation determines to be material.⁸⁵⁸ However, related party transactions are subject to numerous pieces of regulation and guidance including corporation law, accounting standards, stock exchange listing rules, and codes of CG.⁸⁵⁹

Table 6.14

Material transaction

Year	2012		2013		2014		2015	
	R	UR	R	UR	R	UR	R	UR
Sectors	No	%	No	%	No	%	No	%
Closed-End funds	0	0%	0	0%	0	0%	0	0%
Consumer Products	30	13%	8	4%	31	14%	7	3%
Finance	33	15%	5	2%	38	17%	0	0%
Hotels	7	3%	3	1%	7	3%	9	4%
Industrial Products	1	0%	0	0%	0	0%	1	0%
IPC	58	26%	12	5%	60	27%	9	4%
Mining	2	1%	0	0%	1	0%	2	1%
Plantations	0	0%	0	0%	0	0%	0	0%
Properties	10	4%	3	1%	11	5%	2	1%
REITS	22	10%	5	2%	23	10%	4	2%
SPAC	5	2%	0	0%	5	2%	0	0%
Trading/ Services	1	0%	0	0%	1	0%	0	0%
Total	48	22%	8	4%	49	22%	7	3%
	184	83%	39	17%	188	84%	35	16%
	196	88%	27	12%	202	91%	21	9%

⁸⁵⁸ Kohlbeck, Mark J., and Brian W. Mayhew. "Agency costs, contracting, and related party transactions". *Contracting, and Related Party Transactions* (December 31, 2004) (2004).

⁸⁵⁹ Gan, Victor. "The Impact of Related Party Transactions on Performance and Valuation of Malaysian Listed Firms: Testing the Influence of Corporate Governance." (2017).

Table 6.14 shows material transaction of the selected companies under the study. It reveals an increase in the number of companies that reported material transaction between 2012 (83%) and 2015 (91%). On the need for the board of directors to disclose to shareholders all proposed material transactions, R50 stated that “This disclosure must include all material facts in the case of a contract or transaction involving the Directors”.⁸⁶⁰ Also, R138 disclosed that “The Directors are fully apprised of the need to determine and disclose potential or actual conflicts of interest which may arise about transactions or matters which come before the Board”.⁸⁶¹

Some companies disclosed that the directors should review information regarding related party transactions. According to R24, “To review related party transactions and conflict of interest situation that may arise within the Group, including any transaction, procedure or course of conduct that may question management integrity”.⁸⁶² Furthermore, R204 stressed that “Reviewing conflict of interest situations and related party transactions that may arise within the Company or the Group including any transactions”.⁸⁶³ Accordingly, some companies reported in their guidelines that there were no material related party transactions during their financial year. R149 highlighted that “There were no material related party transactions (not being transactions in the ordinary course of business) during the financial year.”

Given the result above, it is evident that there was high adherence to the best practices as required by the companies to disclose material information⁸⁶⁴. According

⁸⁶⁰ Uchi Technologies Berhad. “Board of directors charter.” (2010). P1.

⁸⁶¹ YTL Land & Development Berhad. “Board charter.” (2015). P1.

⁸⁶² Asia Brands Berhad. “Annual report.” (2014). P27.

⁸⁶³ Esthetics International Group Berhad. “Annual report.” (2014). P31.

⁸⁶⁴ Gan, Victor. (2017)

to Cottingham and Hussey (1995)⁸⁶⁵, disclosure in the annual report is the primary information source for investors and other stakeholders to observe related party transactions. More importantly, this information forms the basis of their decision-making process.

6.3.3.4 Declaration of Interest

Declaration of interest is often called a conflict of interest which can be defined as “a conflict between the public duty and the private interest of a public official in which the official’s private capacity interest could improperly influence the performance of his/her official duties and responsibilities”⁸⁶⁶. The primary responsibility of PLCs is to serve the public interest, so staff and board members of the company must discharge their duties in a manner that is seen to be honest, fair and unbiased.

Table 6.15

Declaration of Interest

Year	2012		2013		2014		2015	
	R	UR	R	UR	R	UR	R	UR
Sectors	No	%	No	%	No	%	No	%
Closed-End funds	0	0%	0	0%	0	0%	0	0%
Consumer Products	30	13%	8	4%	33	15%	5	2%
Finance	9	4%	1	0%	9	4%	1	0%
Hotels	0	0%	1	0%	0	0%	1	0%
Industrial Products	63	28%	7	3%	64	29%	6	3%
IPC	2	1%	0	0%	2	1%	1	0%
Mining	0	0%	0	0%	0	0%	1	0%
Plantations	11	5%	2	1%	11	5%	2	1%

⁸⁶⁵ Cottingham, Juliet, and Roger Hussey. "The prevention of misleading accounts through disclosures of related party transactions." *Journal of Financial Regulation and Compliance* 3, no. 4 (1995): 350-357.

⁸⁶⁶ Gompers, Paul, and Josh Lerner. "Conflict of interest in the issuance of public securities: Evidence from venture capital". No. w6847. *National Bureau of Economic Research*, (1998).

Properties	26 12%	1 0%	26 12%	1 0%	27 12%	0 0%	26 12%	1 0%
REITS	4 2%	1 0%	5 2%	0 0%	4 2%	1 0%	5 2%	0 0%
SPAC	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%
Trading/ Services	54 24%	2 1%	54 24%	2 1%	54 24%	2 1%	56 25%	0 0%
Total	200 90%	23 10%	205 92%	18 8%	209 94%	14 6%	215 96%	8 4%

Table 6.15 shows declaration of interest of 223 PLCs in BM from 2012 until 2015. It highlights that 90% of the companies and in 2012 and 96% reported such declaration in 2015. The conflicts of interest can lead to doubt about the integrity of a public official or board member and can impact on the reputation of the organisation itself. R58 disclosed that “The Board of Directors...is committed to safeguarding the interests of its stakeholders and recognises the importance of CG in achieving this objective”.⁸⁶⁷ Moreover, R78 stated that “All directors are to act in the best interest of the Company and shall disclose to the Board of any interest or potential interest as soon as he becomes aware of such interest”.⁸⁶⁸

Additionally, some companies reported that none of their directors had any interest. R86 disclosed that “None of the Directors or major shareholders of the Company has any interest, direct or indirect, in any business carrying on a similar trade as the Company or its subsidiaries and which is not quoted on a stock exchange”.⁸⁶⁹ On the requirement that members must inform the board of any conflicts of interest that may happen, R98 stressed that “Board members are required to inform the Board of conflicts or potential conflicts of interest they may have about particular items of business, preferably in advance”.⁸⁷⁰

⁸⁶⁷ Hartalega Holdings Berhad. “Board charter.” P4.

⁸⁶⁸ Multi-Usage Holdings Berhad. “Annual report.” (2014). P14.

⁸⁶⁹ Stone Master Corporation Berhad. “Annual report.” (2015). P40

⁸⁷⁰ Industronics Berhad. “Board charter.” (2012). P4.

On the issue of declaration interest, a high number of the selected companies reported conflicts of interest⁸⁷¹. The interview with IR1 supported the guideline that *“If a director has an interest in the contract, or share agreement then the directors must disclose that information as stated in the law”*⁸⁷². Moreover, IR2 affirmed that *“Yes, it is true, BMLR indicates that directors of any companies must disclose their interest at the end of each financial”*.

6.3.4 Accountability and Audit

An audit is an important element of efficient equity markets because audits can enhance the credibility of financial information, directly support better CG practices through financial disclosure reporting,⁸⁷³ and therefore ultimately influence the allocation of resources.⁸⁷⁴ An effective and objective of the audit is an essential part of CG⁸⁷⁵, hence, auditors are given the power to detect the company’s wrongdoing and accountable on the financial reporting prepared by the governance of the company.⁸⁷⁶ This section analyses and discusses audit and accountability which include financial reporting, internal control, audit committee, code of ethics, and CG disclosure.

⁸⁷¹ Amran, Noor Afza, and Ayoib Che Ahmad. "Effects of ownership structure on Malaysian companies performance." *Asian Journal of Accounting and Governance* 4 (2013): 51-60.

⁸⁷² Aishah Bidin, Companies Commission of Malaysia, interview by author, UKM, Kajang, Selangor, Malaysia, October 21, 2016.

⁸⁷³ Francis, LaFond & Schipper, 2003; Sloan, (2001)

⁸⁷⁴ SEC, (2000).

⁸⁷⁵ Low, (2002).

⁸⁷⁶ Netto, (2007)

6.3.4.1 Financial Reporting

Financial reporting is defined as “the process of producing statements that disclose an organisation's financial status to management, investors and the government”.⁸⁷⁷ The board aims to present a clear and meaningful assessment of the company's financial positions and their reports to the shareholders, investors, and regulatory authorities. This assessment is primarily provided in the annual financial statements, quarterly result announcements, the chairman's statement, and review of the operations in the annual report.⁸⁷⁸

Table 6.16

Financial Reporting

Year	2012		2013		2014		2015	
	R	UR	R	UR	R	UR	R	UR
Sectors	No %	No %	No %	No %	No %	No %	No %	No %
Closed-End funds	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Consumer Products	34 15%	4 2%	38 17%	0 0%	38 17%	0 0%	38 17%	0 0%
Finance	9 4%	1 0%	10 4%	0 0%	10 4%	0 0%	10 4%	0 0%
Hotels	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%
Industrial Products	69 31%	1 0%	68 30%	2 1%	67 30%	3 1%	69 31%	1 0%
IPC	2 1%	0 0%	1 0%	1 0%	2 1%	0 0%	2 1%	0 0%
Mining	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Plantations	13 6%	0 0%	12 5%	1 0%	12 5%	1 0%	13 6%	0 0%
Properties	27 12%	0 0%	24 11%	3 1%	25 11%	2 1%	26 12%	1 0%
REITS	5 2%	0 0%	4 2%	1 0%	5 2%	0 0%	4 2%	1 0%
SPAC	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%
Trading/ Services	52 23%	4 2%	55 25%	1 0%	55 25%	1 0%	56 25%	0 0%
Total	213 96%	10 4%	214 96%	9 4%	216 97%	7 3%	220 99%	3 1%

⁸⁷⁷ Blessing, Anaja. "The Role of Financial Statements on Investment Decision Making: a Case of United Bank for Africa PLC". (2004-2013)."

⁸⁷⁸ Thompson, Jocelyn. "Accountability and audit". *International Journal of Government Auditing* 30, no. 2 (2003): 16.

Table 6.16 shows financial reporting of 223 selected companies in BM. It also indicates that the number of the companies that did financial reporting increased from 213 (96%) in 2012 to 220 (99%) in 2015. On this, R27 disclosed that, “The Board aims to present a balanced, clear and meaningful assessment of the Group’s financial position and prospects in all their financial reports to stakeholders”.⁸⁷⁹ Moreover, R159 highlighted that “It is the Board’s commitment to present a balanced and meaningful assessment of the Group’s financial performance and prospects at the end of each reporting period and financial year”.⁸⁸⁰

The annual report should also contain a statement setting out the responsibilities of the board for the preparation and presentation of financial statements, together with a statement by the auditors about their reporting responsibilities. On this, R56 reported that “The directors of the Company are responsible for the preparation of financial statements to give a true and fair view according to the Malaysian Financial Reporting Standards”.⁸⁸¹ Similarly, R175 stated that “The directors of the Company are responsible for the preparation of financial statements that give a true and fair view in accordance...International Financial Reporting Standards”.⁸⁸² The interview with IR1 indicated that “all the financial statement must be audited and that is the requirements of the Companies Act under sections 172-175”⁸⁸³. Based on this assertion, the majority of the companies under study followed the best practice of providing financial reports. High-quality financial reporting may provide higher

⁸⁷⁹ O&C Resources Berhad. “Annual report.” (2014). P18.

⁸⁸⁰ Iskandar Waterfront City Berhad, “Annual report.” (2014). P26.

⁸⁸¹ Denko Industrial Corporation Berhad. “Annual report.” (2014). P48.

⁸⁸² UMS Holdings Berhad. “Board charter.” (2015). P1.

⁸⁸³ Aishah Bidin, Companies Commission of Malaysia, interview by author, UKM, Kajang, Selangor, Malaysia, October 21, (2016).

quality information where good CG and transparent practices are highlighted in the financial reports to reflect a healthy environment for investors in the capital markets.

6.3.4.2 Internal Control

Internal control, as defined in accounting and auditing, is a process for assuring achievement of an organisation's objectives in operational effectiveness and efficiency, reliable financial reporting, and compliance with laws, regulations and policies. As a broad concept, internal control involves everything that controls risk to an organisation.⁸⁸⁴ The board has the responsibility for establishing a sound system of internal control to safeguard shareholders' investment and Group's assets, and to provide reasonable assurances on the reliability of the financial statements.⁸⁸⁵

Table 6.17

Internal Control

Year	2012		2013		2014		2015	
	R	UR	R	UR	R	UR	R	UR
Sectors	No %	No %	No %	No %	No %	No %	No %	No %
Closed-End funds	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Consumer Products	36 16%	2 1%	35 16%	3 1%	38 17%	0 0%	35 16%	3 1%
Finance	10 4%	0 0%	10 4%	0 0%	10 4%	0 0%	10 4%	0 1%
Hotels	1 0%	0 0%	1 0%	0 0%	0 0%	1 0%	1 0%	0 0%
Industrial Products	69 31%	1 0%	70 31%	0 0%	69 31%	1 0%	70 31%	0 0%
IPC	2 1%	0 0%	1 0%	1 0%	2 1%	0 0%	2 1%	0 0%
Mining	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Plantations	13 6%	0 0%	10 4%	3 1%	12 5%	1 0%	13 6%	0 0%
Properties	26 12%	1 0%	26 12%	1 0%	25 11%	2 1%	27 12%	0 0%
REITS	5 2%	0 0%	3 1%	2 1%	4 2%	1 0%	5 2%	0 0%
SPAC	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%

⁸⁸⁴ Sawyer's Guide for Internal Auditors 1. "The Institute of Internal Auditors Research Foundation". 2012. p. 36. ISBN 978-0-89413-721-1.

⁸⁸⁵ Krishnan, Jayanthi. "Audit committee quality and internal control: An empirical analysis". *The accounting review* 80, no. 2 (2005): 649-675.

Trading/ Services	55 25%	1 0%	52 23%	4 2%	56 25%	0 0%	55 25%	1 0%
Total	218 98%	5 2%	209 94%	14 6%	217 97%	6 3%	219 98%	4 2%

Table 6.17 shows the internal control of the selected companies reported. The number of companies that reported their internal control increased from 94% in 2012 to 98% in 2015. However, the directors should, at least annually, conduct a review of the risks facing the company and the effectiveness of the system of internal control. On this, R20 reported that “The Board of Directors is aware of the importance of a comprehensive internal control policy as well as an effective risk management framework, in particular in the areas of finance and operations”.⁸⁸⁶ Also, R152 stressed that “The Board is overall responsible for the maintenance of a sound system of risk management and internal control that supports effective and efficient operations and compliance with laws and regulations”.⁸⁸⁷

The need for companies to have an internal audit function was clarified by R25, who said that

“The Group relies on the in-house internal audit function to provide the required level of assurance that the risk management and internal control system are effective in mitigating organisational risks and achieve the Group’s corporate objectives”.⁸⁸⁸

Additionally, R136 highlighted that

“The Group’s internal audit function is outsourced to an independent firm of consultants to assist the Board and the Audit Committee in

⁸⁸⁶ Bio Osmo Berhad. “Annual report.” (2014). P23.

⁸⁸⁷ Kejuruteraan Samudra Timur Berhad. “Annual report.” (2015). P28.

⁸⁸⁸ TPC Plus Berhad. “Annual report.” (2014). P14.

providing an independent assessment of the adequacy, efficiency and effectiveness of the Group's internal control system".⁸⁸⁹

Our interview with IR1 stressed that it would be useful as part of the internal rules and regulations to have their safeguard of good practices⁸⁹⁰. IR2 attested that *"It is the responsibility of the board to ensure that the policies and procedure of the establishment is effectively implemented by the management"*.⁸⁹¹

6.3.4.3 Audit Committee

An audit committee is defined as "an operating committee of a company's board of directors that is in charge of overseeing financial reporting and disclosure"⁸⁹². The primary purpose of an audit committee is to provide oversight of the financial reporting process, the audit process, the system of internal controls and compliance with laws and regulations.⁸⁹³

Table 6.18

Audit Committee

Year	2012		2013		2014		2015	
	R	UR	R	UR	R	UR	R	UR
Sectors	No	%	No	%	No	%	No	%
Closed-End funds	0	0%	0	0%	0	0%	0	0%
Consumer Products	37	17%	1	0%	38	17%	0	0%
Finance	10	4%	0	0%	10	4%	0	0%
Hotels	1	0%	0	0%	1	0%	0	0%
Industrial Products	69	31%	1	0%	68	30%	2	1%

⁸⁸⁹ Eastern & Oriental Berhad. "Annual report." (2015). P90.

⁸⁹⁰ Aishah Bidin, Companies Commission of Malaysia, interview by author, UKM, Kajang, Selangor, Malaysia, October 21, 2016.

⁸⁹¹ Kelly Kheng, Securities Commission of Malaysia, e-mail message to author, December 8, 2016.

⁸⁹² Klein, April. "Audit committee, board of director characteristics, and earnings management". *Journal of accounting and economics* 33, no. 3 (2002): 375-400.

⁸⁹³ Abdullah, Shamsul-Nahar. "Board composition, audit committee and timeliness of corporate financial reports in Malaysia". *Corporate ownership and control* 4, no. 2 (2006): 33-45.

IPC	2 1%	0 0%	2 1%	0 0%	2 1%	0 0%	2 1%	0 0%
Mining	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Plantations	13 6%	0 0%	13 6%	0 0%	13 6%	0 0%	13 6%	0 0%
Properties	26 12%	1 0%	27 12%	0 0%	26 12%	1 0%	27 12%	0 0%
REITS	5 2%	0 0%	5 2%	0 0%	4 2%	1 0%	5 2%	0 0%
SPAC	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%
Trading/ Services	55 25%	1 0%	53 24%	3 1%	55 25%	1 0%	53 24%	3 1%
Total	219 98%	4 2%	219 98%	4 2%	217 97%	6 3%	219 98%	4 2%

Table 6.18 shows audit committees of 223 listed companies in BM. It indicates that 98% of the companies reported audit committee process during the four years (2012-2015). In this regard, the companies highlighted that the board should establish formal and transparent arrangements for considering how they should select and apply accounting policies, financial reporting and internal control principles and maintaining an appropriate relationship with the company's auditors. On this, R143 disclosed that "The Audit Committee... responsibilities in the assessment and evaluation of the Group's management and financial reports of the performance of the business, accounting policies, risk and internal controls".⁸⁹⁴ Also, R203 reported that "An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the Directors, as well as evaluating the overall presentation of the financial statements".⁸⁹⁵

The duties of an audit committee should include keeping under review the scope and results of the audit and its effectiveness, and the independence and objectivity of the auditors, R40 stated that "The Audit Committee is responsible for ensuring that adequate resources are allocated and provided to the internal auditors to carry out

⁸⁹⁴ Land & General Berhad. "Board charter." (2014). P11

⁸⁹⁵ Malayan United Industries Berhad, "Annual report." (2014). P50.

their duties according to the annual audit plan”.⁸⁹⁶ Also, R214 highlighted that “The duties of the Audit Committee ... to monitor any potential conflict of interest situation that may arise within the Group, including any transaction, procedure or course of conduct that raises the questions of management integrity”.⁸⁹⁷

Given the analysis, it is noted that 98% of the companies for this study indicated in their annual reports that their board established formal and transparent arrangements for considering how they should select and apply accounting policies, financial reporting and internal control principles and maintaining an appropriate relationship with the company’s auditors. The structure of audit committee in PLCs should be enhanced to enable a higher level of disclosure and quality report.

6.3.4.4 Code of Ethics

A Code of Ethics is defined as “the ethical benchmark for investment professionals around the globe, regardless of job title, cultural differences, or local laws”.⁸⁹⁸ It states the principles and expectations governing the behaviour of individuals and organisations in the conduct of internal auditing. It describes the minimum requirements for conduct and behavioural expectations rather than specific activities⁸⁹⁹.

⁸⁹⁶ Osk Holdings Berhad. “Annual Report.” (2014). P35

⁸⁹⁷ Eversendai Corporation Berhad. “Board charter.” (2013). P1.

⁸⁹⁸ Griseri, Paul, and Nina Seppala. "Business ethics and corporate social responsibility". (2010).

⁸⁹⁹ Parsons, Patricia J. “Ethics in public relations: A guide to best practice”. *Kogan Page Publishers*, (2008).

Table 6.19

The Code of Ethics

Year	2012		2013		2014		2015	
	R	UR	R	UR	R	UR	R	UR
Sectors	No %	No %	No %	No %	No %	No %	No %	No %
Closed-End funds	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Consumer Products	31 14%	7 3%	33 15%	5 2%	33 15%	5 2%	33 15%	5 2%
Finance	8 4%	2 1%	8 4%	2 1%	9 4%	1 0%	9 4%	1 0%
Hotels	0 0%	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%	1 0%
Industrial Products	66 30%	4 2%	67 30%	3 1%	68 30%	2 1%	68 30%	2 1%
IPC	2 1%	0 0%	1 0%	1 0%	2 1%	0 0%	2 1%	0 0%
Mining	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Plantations	11 5%	2 1%	11 5%	2 1%	12 5%	1 0%	12 5%	1 0%
Properties	24 11%	3 1%	26 12%	1 0%	26 12%	1 0%	26 12%	1 0%
REITS	4 2%	1 0%	4 2%	1 0%	4 2%	1 0%	4 2%	1 0%
SPAC	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%	1 0%	0 0%
Trading/ Services	50 23%	6 3%	51 23%	5 2%	52 23%	4 2%	56 25%	0 0%
Total	197 88%	26 12%	202 91%	21 9%	207 93%	16 7%	211 95%	12 5%

Table 6.19 shows the code of ethics reported by the companies. The number of the companies that reported the code of ethics increased from 88% in 2012 to 91%, 93% and 95% in 2013, 2014 and 2015 respectively. Hence, the best practice guidelines for the selected companies indicated that the companies must adopt a code of business conduct and ethics for directors and key management personnel and must promptly disclose any waivers of the code for directors or others. On thus, R93 disclosed that “The Board has formally adopted a CCE which governs the way in which the Directors and employees of the Group conduct themselves”.⁹⁰⁰ Also, R117 stated that “The Board has adopted a Code of Conduct and Business Ethics Policy to enhance

⁹⁰⁰ Hibiscus Petroleum Berhad. “Annual report.” (2015). P54.

the standards of CG and Behaviour as a guide for the Directors and employees from the Executive level upwards”.⁹⁰¹

Furthermore, the companies may determine their policies in the formulation of the code. R174 reported that “The Company observes its own Code of Conduct and Business Ethics (“CoBE”), including the Whistleblowing Policy and the No Gift Policy”.⁹⁰² Likewise, R220 stated that “A whistleblowing policy was also adopted as part of the Company’s commitment to the highest standards of professional integrity, ethical behaviour, transparency and fair dealing in the conduct of its business”.⁹⁰³

The result shows that a few companies did not report the code of ethics in their company. However, those who had a formal code of ethics appeared to have a lack of commitment and did not have any systematic way to promote, support, and ensure compliance with the code.

6.3.4.5 Corporate Governance Disclosure

One of the major responsibilities of the board of directors is to ensure that shareholders and other stakeholders are provided with high-quality disclosures on the financial and operating results of the entity. Almost all CG codes around the world require that the board provide shareholders with information on the financial results of a company to enable them to understand the nature of its business.⁹⁰⁴

⁹⁰¹ Multi-Code Electronics Industries (M) Bhd, “Board charter.” (2013). P1.

⁹⁰² Misc Berhad. “Annual report.” (2014). P123.

⁹⁰³ Perdana Petroleum Berhad. “Annual report.” (2014). P26.

⁹⁰⁴ Haniffa, Rozaini Mohd, and Terry E. Cooke. “Culture, corporate governance and disclosure in Malaysian corporations”. *Abacus* 38, no. 3 (2002): 317-349.

Table 6.20

Corporate Governance Disclosure

Year	2012		2013		2014		2015	
	R	UR	R	UR	R	UR	R	UR
Sectors	No	%	No	%	No	%	No	%
Closed-End funds	0	0%	0	0%	0	0%	0	0%
Consumer Products	29	13%	9	4%	30	13%	8	4%
Finance	33	15%	5	2%	38	17%	0	0%
Hotels	8	4%	2	1%	9	4%	1	0%
Industrial Products	0	0%	1	0%	0	0%	0	0%
IPC	63	28%	7	3%	63	28%	7	3%
Mining	2	1%	0	0%	2	1%	0	0%
Plantations	0	0%	0	0%	0	0%	0	0%
Properties	12	5%	1	0%	11	5%	2	1%
REITS	23	10%	4	2%	26	12%	1	0%
SPAC	5	2%	0	0%	4	2%	1	0%
Trading/ Services	1	0%	0	0%	1	0%	0	0%
Total	51	23%	5	2%	54	24%	2	1%
	194	87%	29	13%	200	90%	23	10%
	205	92%	18	8%	209	94%	14	6%

Table 6.20 displays CG disclosure of 223 selected companies from the year of 2012 until 2015. It also shows an increase in the number of the companies that did so between 2012 (87%) and 2015 (94%). On this, R33 disclosed that “This disclosure statement sets out the manner in which the company has applied the principles and recommendations of the code and the extent of compliance with the principles and recommendations of the code”.⁹⁰⁵ Likewise, R143 highlighted that “The Board has established Company Disclosure Policies and Procedures (CDPP) to ensure compliance with disclosure requirements of the Main Market Listing Requirements of Bursa Malaysia”.⁹⁰⁶

⁹⁰⁵ Power Root Berhad. “Annual report.” (2014). P19

⁹⁰⁶ Land & General Berhad. “Board charter.” (2014). P14.

Furthermore, the directors should include in the company's annual report a CG Report, setting out the manner and extent to which the company has complied with the principles and provisions of this code. R64 disclosed that "to review the Internal Control Statement for Disclosure in Annual Reports before recommendation to the Board for approval".⁹⁰⁷ Also, R82 highlighted that "...enhance the disclosure in the Annual Report to include information about the internal audit function."

It can be noted from the analysis above that almost 90% of the companies reported CG disclosure while around 10% did not report whether the committee made a determination of the independence of the auditors and disclosed the basis of such determination in the annual report. It became clear from an interview with IR1 that *"...it is for the companies to review disclosure practice, which might be included in the company's board charter"*⁹⁰⁸. Given that, IR2 stated that *"The Board is responsible for ensuring comprehensive, accurate and timely disclosures of information to enable the shareholders and other stakeholders to make a clear investment decision"*.⁹⁰⁹

6.4 Conclusion

The central objective of this part was to study the best practices of disclosure policy amongst PLCs on BM between 2012 and 2015. This analysis used to regulate the level of the best practices disclosure. The population of the study was 223 companies listed at the BM. Data were primarily secondary, which 7 were obtained from the

⁹⁰⁷ Seremban Engineering Berhad, "Annual report." (2012). P25.

⁹⁰⁸ Aishah Bidin, Companies Commission of Malaysia, interview by author, UKM, Kajang, Selangor, Malaysia, October 21, 2016.

⁹⁰⁹ Kelly Kheng, Securities Commission of Malaysia, e-mail message to author, December 8, 2016.

guidelines and the annual reports of the Malaysian listed companies. The data were analysed by sector and tabulated.

The findings revealed a slight diversity in format and information provided. However, the selected PLCs disclosed best practices regarding directors' control, directors' remuneration, relation with shareholders, and accountability and audit. On directors' control and rules, the findings showed that some companies did not fully report best practices (board responsibilities, its appointment, Access to information, the duties of the chairman, the board balance, the provision of information, board performance, and the disclosure of information in respect of directors).

The results also showed that the three items of the directors' remuneration were not fully reported in the companies' guidelines as well annual reports. Also, for the relation between the company and its shareholders, the findings showed that all the modes did not fully report corporate disclosure of best practice; the analysis found five companies did not report AGM and 13 did not report board communication with shareholders. The other two items not consistently reported were material transaction and declaration of interest. Table 6.21 shows compliant and non-compliant companies.

Table 6.21

Compliance with Best Practices

No	Item	Compliance	Non-compliance
1	The board of directors	209	14
2	Chairman and chief executive officer	178	45

3	Board balance	205	18
4	Supply of information	191	32
5	Appointment of the board	209	14
6	Board performance	211	12
7	Disclosure of information in respect of directors	201	22
8	Access to information and independent advice	209	14
9	Remuneration procedure	209	14
10	The level of the remuneration	193	30
11	Disclosure of remuneration	177	46
12	Annual general meetings	219	4
13	Communication with shareholder	210	13
14	Material transaction	184	39
15	Declaration of interest	200	23
16	Financial reporting	213	10
17	Internal control	218	5
18	Audit committee	219	4
19	Code of ethics	197	26
20	CG disclosure	194	29

CHAPTER SEVEN

THE AMENDMENTS OF THE NEW CORPORATE GOVERNANCE PRINCIPLES 2017

7.1 Introduction

The MCCG was implemented in 2000 and was revised twice in 2007, 2012 and finally in 2017. The new amendment of the MCCG 2017 presents significant changes and recommendations aimed at raising CG standards in Malaysia⁹¹⁰. Even though the assessment of the companies was done from 2012- 2015 using the former 2012 code, due attention is also given to the new MCCG 2017 in order to appreciate the relevant principles of CG in Malaysia.

MCCG 2017 now uses the CARE approach (abbreviated from the term ‘Comprehend, Apply and Report’) by switching from the ‘comply or explain’ method in the 2012 to “apply or explain” an option method to move away from a “box-ticking” approach and encouraging more practical application of disclosures and practices application of CG disclosures and practices. In this context, companies should explain how applied practices have been applied and where there is a difference; there must be clear and meaningful disclosure as to why this practice has not been applied and how alternative practice has achieved the desired result⁹¹¹. The

⁹¹⁰ Rajah & Tann Asia "The Malaysian Code on Corporate Governance 2017" Christopher & Lee Ong, (2017). Available at: <https://www.christopherleeong.com/media/2803/clo-2017-05-the-malaysian-code-onf.pdf>

⁹¹¹ Bursa Malaysia " corporate governance guide: Moving from Aspiration to Actualisation" 3rd edition, *Bursa Malaysia Berhad, Kuala Lumpur*. (2017).

intended outcome is the average value of supplying the companies with the scope of the vision and the intentions of the practices⁹¹².

This chapter reviews the new amendment of MCCG Principles. This chapter is divided into an introduction, followed by the principles of MCCG 2017 and finally, conclusion of the chapter.

7.2 The principles of MCCG 2017

MCCG 2012 consists of eight principles as highlighted in chapter four. The new MCCG 2017 has added three new key principles. Each setting out the intended outcomes together with recommended practices and further explanatory notes in guidance on the implementation of such practices. Hence, the MCCG is based on three key principles of good CG, which are Board Leadership and Effectiveness, Effective Audit and Risk Management and Integrity in Corporate Reporting and Meaningful Relationship with Stakeholders.

7.2.1 Board Leadership and Effectiveness

This section explains how the board drives the leadership of a company; and to be effective, boards need to consider the dimensions of Board Responsibilities, Board Composition and Remuneration.

⁹¹² Ibid

7.2.1.1 Board Responsibilities

In framing the responsibilities of the board in leading the company, MCCG 2017 in practice 1.1 stipulates that;

“The board should set the company’s strategic aims, ensure that the necessary resources are in place for the company to meet its objectives and review management performance. The board should set the company’s values and standards, and ensure that its obligations to its shareholders and other stakeholders are understood and met”.

This condition refers to the fact that the responsibilities of the members are clearly divided in order to ensure a balance of power and authority. The positions of the director, the chairman, and the CEO are retained separately, while their responsibilities and powers are clearly defined⁹¹³. In this sense, managers of a company, executive or non-executive, are obliged to exercise unrestricted, good faith and appropriate care and skill. The director must be familiar with the legal standards that determine his mission in law. A manager owes similar credit obligations in some respects to the functions of the trustee⁹¹⁴.

By strategy, there is a conscious shift by MCCG which now calls on boards to allocate time and effort to develop a company's strategy, rather than adopting it. It is recognised that some boards have a tendency to "strategise" to set strategy entirely

⁹¹³ Vizione Holdings Berhad "Board Charter". Available at: <https://www.vizione.com.my/governance/governance/VHB-board-charter.pdf> [accessed 20 February 2018].

⁹¹⁴ Bursa Malaysia. (2017).

for management, leaving the board with little or no input on the company's long-term direction⁹¹⁵. It is important to note that in high performing companies, board members are often "repulsed" and deeply involved in shaping the company's strategy⁹¹⁶.

In addition to defining the company's strategic direction, the board of directors should also conduct a regular and strategic review of the board. This includes analysing the existing corporate strategy, examining progress towards specific objectives and assessing current performance in the light of these objectives. The review should be high-level of internal and external factors affecting the company, which are conducted by the Board and separate from any management review of the strategy⁹¹⁷.

Board strategic reviews should be conducted periodically (as required by the company) and in medium and rapidly changing market environments, at short intervals⁹¹⁸. Boards must be careful in assessing the company's performance in achieving its strategy. The report card should include exception reports to help the board reconcile with what is not working and why, while reviewing key strategic issues.

⁹¹⁵ Securities Commission Malaysia " SC Releases New Malaysian Code on Corporate Governance to Strengthen Corporate Culture" Kuala Lumpur, 26 April 2017. Available at: https://www.sc.com.my/post_archive/sc-releases-new-malaysian-code-on-corporate-governance-to-strengthen-corporate-culture/.

⁹¹⁶ Bursa Malaysia. (2017).

⁹¹⁷ Ramesh Ruben Louis " What the new Malaysian corporate governance code will mean for companies" . Accounting and Business magazine. 01 July 2017. Available at: <http://www.accaglobal.com/my/en/member/discover/cpd-articles/governance-risk-control/mycorpgov-cpd.html>.

⁹¹⁸ Brian Chia and Sue Wan Wong "Malaysian Code on Corporate Governance and Regulatory Developments". Baker McKenzie. 30 April 2017. Available at: <https://www.bakermckenzie.com/en/insight/publications/2017/04/malaysian-code-corporate-governance/>

Practice 1.2 of MCCG defines the role of the chairman of the board "A Chairman of the board who is responsible for instilling good CG practices, leadership and effectiveness of the board is appointed". Moreover, the practice 1.3 of MCCG enhances the role of chairman and CEO to be held by two different people. Separation is essential because both roles are distinct, have different expectations and serve a different core audience.

When each party has the freedom to focus on its role, one can expect improved results in terms of the quality of the deliberations with precision and accuracy. Like a thriving national democracy with three distinct branches that share power and function as checks and balances, namely the executive, legislative and judicial branches, the appropriate balance of power between the chairman, CEO and non-executive directors facilitate an accountable and high-performing board⁹¹⁹. In keeping with this, the responsibilities of the chairman in leading the board and being responsible for the effective overall functioning of the board is also highlighted in standard 9.1 of BNM's policy document on CG also subject to the company's constitution⁹²⁰, paragraph 1 of the third schedule of CA 2016 stipulates that the "directors may elect one of their numbers as chairperson of the board and determine the period for which he is to hold office.

It is important for the board to be equipped with adequate resources to carry out its oversight duties. In this regard, Practice 1.4 indicates that

⁹¹⁹ Bursa Malaysia. (2017)

⁹²⁰ The Third Schedule of the Companies Act 2016 sets out the provisions governing proceedings of the board.

“The board is supported by a suitably qualified and competent Company Secretary to provide sound governance advice, ensure adherence to rules and procedures, and advocate adoption of corporate governance best practices”.

As described above, the company secretary will turn slowly but surely from being just an administrator and facilitating the board's actions to CG consultant⁹²¹. Thus, the secretary plays an important role in advising the board, usually through the chairman, on governance matters and ensuring an effective CG system⁹²². The company secretary also plays a key role in guiding and advising the board on compliance matters such as company law and listing requirements. In order to contribute and work effectively, in addition, the secretary of the company must remain familiar with the many developments related to corporate law, securities, listing rules and CG practices⁹²³.

The board shall rely on the company secretary to submit the board papers in a timely and sufficient level of detail. Hence, Practice 1.5 stipulates “Directors receive meeting materials, which are complete and accurate within a reasonable period prior to the meeting. Upon conclusion of the meeting, the minutes are circulated in a timely manner”. In this regard, corporate directors call for the board of papers at least five days before the board meeting⁹²⁴. Directors should also recognize that selective

⁹²¹ Bursa Malaysia (2017)

⁹²² see ‘General Section: Corporate Governance’ <https://www.sc.com.my/general_section/cg>[5]Supra n 3, para 4.1

⁹²³ CIMB " Board Charter" 27 February 2017. Available at: <https://www.cimb.com/content/dam/cimbgroup/pdf-files/corporate-governance/20170809-board-charter.pdf>

⁹²⁴ Bursa Malaysia (2017)

disclosure of information in board papers may occur, where risk factors, worst case scenarios or less satisfactory information are nominated. It is important to recognise that selective reporting to the board may lead to deviant decisions and the process of board's deliberation can only be enhanced through full and balanced disclosure of information. With regard to board discussions, it is in the interest of informed directors that proceedings should be recorded in an appropriate and timely manner⁹²⁵. This includes the comments of each director; how directors voted and whether the relevant objections and reservations were formulated accordingly.

Practice 2.1 stipulates that

“The board has a board charter which is periodically reviewed and published on the company's website. The board charter clearly identifies; the respective roles and responsibilities of the board, board committees, individual directors and management; and issues and decisions reserved for the board.”

Like a company that has its constitution a basic guidance document, the board has the charter of the board of directors as its "constitution". The board charter plays a vital role in helping the board focus on matters related to the company, while also reminding the board that such matters require ongoing attention and not just one-time elements. The board charter sets out the board's strategic intent, authority and terms

⁹²⁵ Lya Rahman "Corporate Governance Developments in Malaysia" Minority Shareholder Watchdog Group. (2017). Available at: https://www.icgn.org/sites/default/files/Corporate%20Governance%20Developments%20in%20Malaysia_0.pdf

of reference and serves as a primary source of reference and induction literature⁹²⁶. Since the charter is a means of communicating the company's approach to important governance practices, it must be available to all stakeholders through the company's website. In a similar manner, the charters of each board committee must clearly specify the duties, rights and expectations of the committee⁹²⁷. There is a need for harmony between the board charter and the committee charters, with careful attention to the delegation of authority from the board to the board committees (including a restriction of five directorships in listed issuers as stipulated in paragraph 15.06 of BMLR). This authorisation shall not conflict with the company's power matrix. The charter of the board committee may be granular and wide-ranging in describing the authority of the committee, but it must also be clear that the responsibility for decisions or recommendations of the board committee rests with the board as a whole⁹²⁸.

Practice 3.1 Indicates that

“The board establishes a Code of Conduct and Ethics for the company, and together with management implements its policies and procedures, which include managing conflicts of interest, preventing the abuse of power, corruption, insider trading and money laundering...”.

⁹²⁶ Bursa Malaysia. (2017)

⁹²⁷ Ibid

⁹²⁸ Ibid

This shows that the main consideration for each board is the tone at the top⁹²⁹. Similarly, it also applies to the values held by each member of the company⁹³⁰. More importantly, the code in its commentary encourages board members to formally adhere to ethical values as set forth in the code of conduct and to ensure that appropriate internal regulations are implemented⁹³¹. As mentioned earlier, companies may consider many issues and risks that can be addressed in the code of conduct and ethics, either under their subject matter or as part of a broader theme, such as antitrust, competitive information, anti-money laundering, confidential information, ownership, insider information, and so on⁹³².

Whereas, practice 3.2 set out that “The board establishes, reviews and together with management implements policies and procedures on whistleblowing”. At this stage, it is important for companies to develop ethical codes of conduct, business conduct, internal audits and compliance review to routinely detect areas of concern, it would also be useful for companies to establish an environment where management and staffs can whistleblow on inappropriate behaviour without being victimised to do so⁹³³. Misconduct is often associated with corruption, but obscenity also extends to things such as endangering the health and safety of workers, polluting the

⁹²⁹ Wang, Isabel Z., and Neil Fargher. "The effects of tone at the top and coordination with external auditors on internal auditors' fraud risk assessments." *Accounting & Finance* (2015).

⁹³⁰ Ioannou, Ioannis, and George Serafeim. "The consequences of mandatory corporate sustainability reporting." (2017).

⁹³¹ Bursa Malaysia. (2017).

⁹³² 4 The Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 and the accompanying guidelines issued by Bank Negara Malaysia provide for the offence of money laundering and terrorism financing and the measures to be undertaken for the prevention of money laundering and terrorism financing offences.

⁹³³ Bursa Malaysia. (2017).

environment, and depriving communities of their legitimate benefits when purchasing them.

In sum, this principle is almost similar to the principle one of the MCCG 2012 as indicated in chapter 4, with some changes in respect of the positions of the Chairman and CEO by separating them, in contrary to what was prevalent in the MCCG 2012. Hence, the basic responsibilities and basic duties of the board are clearly stated in section 211 (Functions of Board) and section 213 (Duties and responsibilities of directors) of CA 2016, which means that the MCCG principles are in line with the CA 2016 sections in terms of the duties and responsibilities of the board.

7.2.1.2 Board Composition

The Board of Directors consists of three distinct parties: the chairman and CEOs (usually led by the CEO or Managing Director) and non-executive directors (including independent directors). According to Practice 4.1 of the MCCG, "At least half of the board comprises independent directors. For Large Companies, the board comprises a majority independent directors". In this regard, the board should consist of a strong element of independence (i.e. the board should be composed of a group of independent directors acting by name by name and content)⁹³⁴. While this is a good practice for all companies, it is of particular importance to companies where some stakeholders (i.e. non-controlling shareholders) have a direct financial interest in the

⁹³⁴ Sakinah, Dayang Nurul, Rachel F. Baskerville, and Farzana Tanima. "Ethnicity In Corporate Governance Research: A Malaysian Lens." (2017).

company, as opposed to a private company in which shareholders and management are often the same persons⁹³⁵.

Moreover, independent directors can make significant contributions to the decision-making of the company by bringing quality into separate neutrality. The independent director, therefore, has particular importance in areas where the interests of management, the company, shareholders and other stakeholders, such as executive performance, remuneration, related party transactions, environmental issues and auditing, diverge⁹³⁶. In this regard, the independent director must be able to deal with any issues discussed or issues for approval at the board level. In addition, there is an important aspect of independent directors who receive increased attention is the length of their service. The argument for introducing limits to owning independent directors is that familiarity and objectivity diminish over time⁹³⁷. Premised on the need to promote greater independence and objectivity, in this context, Practice 4.2 of MCCG states that “The tenure of an independent director does not exceed a cumulative term limit of nine years. Upon completion of the nine years, an independent director may continue to serve on the board as a non-independent director”.

Consequently, the practice also requires for an independent director to continue

⁹³⁵ Mohamad-Yusof, N. Z., Wickramasinghe, D., & Zaman, M. "Corporate governance, critical junctures and ethnic politics: Ownership and boards in Malaysia." *Critical Perspectives on Accounting* (2018).

⁹³⁶ Yatim, N. and Yusoff, H.. "Governance structure and practice in Malaysia: Board of directors' role and responsibilities." In *Corporate Governance*, pp. 199-228. Springer, Berlin, Heidelberg, (2014).

⁹³⁷ Krishnan, S., & Amin, A. M. M. "Empirical Study of Corporate Governance on Public Listed Companies in Malaysia." *Human Resource Management Research* 7, no. 1 (2017): 17-27.

serving on the board after this period, to cease being an independent director and to become a non-independent non-executive director. For companies that choose to retain the services of their independent directors after nine years, shareholder approval should be requested on an annual basis and after the twelfth year, shareholder approval must be obtained through the voting process⁹³⁸.

The code sets out in practice 4.4 that “Appointment of board and senior management are based on objective criteria, merit and with due regard for diversity in skills, experience, age, cultural background and gender”. Thus, gender diversity policies will only yield the desired results if there is commitment and the promotion of an inclusive culture of diversity. MCCG recognises that benefits can accrue at all levels of the company and therefore also requested that diversity be reflected in the senior management team. In particular, women are now recognised as an equal contributor to corporate prosperity and the economy on a larger scale⁹³⁹. However, the board discloses in its annual report the company’s policies on gender diversity, its objectives and measures to achieve these goals. For large companies, the board of directors must have at least 30% women directors as described in practice 4.5 of MCCG 2017.

With regard to sources directors, Practice 4.6 of MCCG indicates that "

⁹³⁸ Cindy Yeap., "Detailed pay disclosure, majority independent directors among enhancements in new CG guide". April 26, 2017. Available at: <http://www.theedgemarkets.com/article/detailed-pay-disclosure-majority-independent-directors-among-enhancements-new-cg-guide>.

⁹³⁹ Tan Sri Ranjit Ajit Singh "Enhancing Boardroom Diversity, Independence". 15 May 2017. Available at: <https://www.pressreader.com/malaysia/new-straits-times/20170515/282351154700877>

“In identifying candidates for appointment of directors, the board does not solely rely on recommendations from existing board members, management or major shareholders. The board utilises independent sources to identify suitably qualified candidates”.

At this point, companies should disclose how to identify newly appointed non-executive directors are identified were they recommended by board members, or were, or other means used to identify and appoint them⁹⁴⁰. If current board members recommend non-executive directors, the burden is on the company to explain why alternative channels are not considered⁹⁴¹.

In addition to appointing directors, in particular to the chairman and CEO, the chairman of the nominating committee is also responsible for evaluating the performance of the board, the board committees and individual directors, whether a particular director or existing ones⁹⁴², this has been indicated in practice 4.7 of the MCCG 2017 which states that “The Nominating Committee is chaired by an Independent Director or the Senior Independent Director”.

Directors who are well versed in a better position to evaluate proposals made by management, ask the correct management questions and be more effective as directors⁹⁴³. The board should assess the training needs of its managers and ensure

⁹⁴⁰ Chong, Lee-Lee, Hway-Boon Ong, and Siow-Hooi Tan. "Corporate risk-taking and performance in Malaysia: the effect of board composition, political connections and sustainability practices." *Corporate Governance: The International Journal of Business in Society* (2018).

⁹⁴¹ Bursa Malaysia. (2017).

⁹⁴² Ibid.

⁹⁴³ Axiata Group Berhad., "Board Charter" 20 February 2013. Available at: https://www.axiata.com/media/upload/corporate/Board_Charter.pdf

that they carry out professional development programs and upgrade skills. Effective performance evaluations of the board, committees and directors are an essential element in identifying training, educational and development needs⁹⁴⁴. In line with that, practice 5.1 stipulates, “The board should undertake a formal and objective annual evaluation to determine the effectiveness of the board, its committees and each individual director. The board should disclose how the assessment was carried out and its outcome...”. In addition, boards of directors could benefit from engaging an external and independent party to facilitate the evaluation process⁹⁴⁵. This Party is expected to provide a neutral view of the Board's strengths and areas of improvement, and can also add insights from other assessments. This benefit is not taken into account when thinking about using an external party⁹⁴⁶.

Similar to principle three of MCCG 2012 described in chapter four, the new MCCG 2017 indicates the board composition, except for the number and duration of independent directors. In this regard, the MCCG 2012 stated that the board has to comprise a majority of independent directors. In all other cases, there was no requirement that independent directors should constitute a majority. On the other hand, the new code adds that at least half of the board must comprise independent directors and, for large companies, there must be a majority of independent directors. Also, consistent with the approach under the 2012 code, the MCCG 2017

⁹⁴⁴ Bursa Malaysia. (2017).

⁹⁴⁵ Al-Shaer, Habiba, and Mahbub Zaman. "Credibility of sustainability reports: The contribution of audit committees." *Business Strategy and the Environment*. (2018).

⁹⁴⁶ Ibid

discourages an independent director from serving for more than nine years. Retention of an independent director above nine years will require the shareholders' approval, whereas retention of an independent director above 12 years will require the shareholders' approval through the two-tier voting process by large shareholders and other shareholders. The rationale for the limitation of tenure is that long tenure can impair the directors' independence.

Over and above, there is no absolute formula for determining the ideal combination of independent directors. The boards that have a balanced or higher ratio of independent directors are sure to go a long way in relieving board dominance, typical discussions and complacency. The reasonable application of this practice means that the board should exceed the prescriptions in BMLR, especially paragraph 15.02 (composition of the board).

7.2.1.3 Remuneration

The establishment of a committee to assist the board in establishing and managing fair and transparent procedures for the development of the remuneration policy for senior managers and management is important because this will ensure that remuneration salaries are determined on the basis of board members' entitlements, senior management and qualification. Efficiency, taking into accounts the company's

operational results, individual performance and comparable market statistics⁹⁴⁷. The remuneration committee should not only reward board members, but also the senior management team. In some companies, the committee deals with bonuses for the entire company. In all cases, the company must disclose the salient features of the remuneration structure in the company and the work of the committee to access the structure⁹⁴⁸.

In addition, Practice 6.2 of MCCG indicates, “The board has a Remuneration Committee to implement its policies and procedures on remuneration including reviewing and recommending matters relating to the remuneration of board and senior management”. In this context, the remuneration committee should consist only of non-executive board members, and most of them should be independent directors, with expert advice, if necessary⁹⁴⁹. Directors participating in the contest must abstain from voting at general meetings to approve fees. Similarly, executive directors should not participate in the report of their own remuneration⁹⁵⁰.

In line with the MCCG in practice 7.1 also indicates that “There is detailed disclosure on named basis for the remuneration of individual directors. The remuneration breakdown of individual directors includes fees, salary, bonus, benefits-in-kind and other emoluments”. Thus, disclosure not only refers to the features of the company's remuneration structure but also to the identification of

⁹⁴⁷ Binasat Communications Berhad "Remuneration Committee". 2017. Available at: http://binacom.com.my/data/ckfinder/files/20171229_Terms_of_Reference_Remuneration_Committee.pdf.

⁹⁴⁸ Bursa Malaysia. (2017).

⁹⁴⁹ Sime Darby Berhad., "Nomination And Remuneration Committee Terms Of Reference". (2017). Available at: http://www.simedarby.com/sites/default/files/20171218_nrc_tor.pdf

⁹⁵⁰ Bursa Malaysia. (2017).

directors and senior management as well as their remuneration. MCCG intends to be able to assess whether the remuneration of managers and senior management is commensurate with their performance and the company's performance⁹⁵¹.

Board members must bear in mind that the purpose of the disclosure is not for trivial reasons, but for investors and other key stakeholders to assess the reasonability of remuneration, in light of the company's conditions, performance and prospects⁹⁵². This disclosure is a key contribution to shareholders' assessment of directors and how they performed supervisory duties. In particular, companies that have crafted their pay structure can vote to expect their shareholders to support if the rules underlying the structure are clear, acceptable and defensible as described in practice 7.7 and 7.3 of the MCCG 217.

On the same context of principle two of MCCG 2012 as described in chapter four, the new amendments of the MCCG 2017 goes a step further by requiring the company to make available such policies and procedures on the company's website. in addition, it require detailed disclosure on a named basis of the remuneration paid to directors (this includes all fees, salary, bonus, benefits-in-kind, and other emoluments), and the remuneration paid to the top 5 personnel in senior management within the bands of RM50,000. Moreover, MCCG 2007 complies with BMLR, which requires companies to disclose in detail the directors' remuneration on a

⁹⁵¹ Ibid

⁹⁵² Arsad, Syahiza, Roshima Said, Haslinda Yusoff, and Rahayati Ahmad. "Explicating the Corporate Governance Mechanisms of Shari'ah Compliant Companies." *Social Sciences* 8, no. 1 (2018): 673-685.

nominee basis to the companies. Also, CA 2016 requires the approval of directors' fees and benefits by shareholders in a general meeting, and the remuneration levels will not be hidden. The MCCG amendments allow the stakeholders to assess whether the remuneration of directors and senior management is commensurate with their performance and the company's performance. Directors must bear in mind that the purpose of the disclosure is not for trivial reasons, but for investors and other key stakeholders to assess the reasonability of wages in light of the company's conditions, performance and prospects. This disclosure is a key contribution to shareholders' assessment of directors and how they have performed their supervisory duties.

7.2.2 Effective Audit and Risk Management

A strong audit committee can be a key feature of a strong CG culture supported by effective audit and risk management. In this section, the study will discuss the Audit Committee, the Risk Management and Internal Control Framework.

7.2.2.1 Audit Committee

In line with the MCCG, Practice 8.1 indicates that “The Chairman of the Audit Committee is not the Chairman of the board”. In this context, directors have a duty to act in the best interests of the company, while the audit committee should provide substantive supervision in the areas of financial reporting, transactions with related

parties, conflicts of interest, internal control environment, internal audit and external audit processes. In addition to being independent, it is important that the chairman of the Audit Committee be distinct from the chairman of the board⁹⁵³. The existence of such positions by the same person may weaken the objectivity of the board's review of the audit committee's findings and recommendations. Such an attitude may also lead to concentration of power in a single director⁹⁵⁴. The need for financial institution to maintain a distinction between the chairman of the board and chairman of the audit committee is enumerated in standard 12.4 of BNM's policy document on CG which states that "to promote robust and open deliberations by the board on matters referred by the board committees, the chairman of the board must not chair any of the board committees".

Furthermore, practices 8.2 and 8.3 of MCCG highlights that the audit committee must be aware of the scope and approach of the external audit. While the audit plan is the responsibility of the external auditor, it is important that the audit committee fully understands the plan. At the beginning of each annual external audit cycle, the audit committee needs to consider the overall strategy of the external auditor, including the planned levels of materiality and resources proposed for the implementation of the external audit plan, and assess whether they are consistent with the scope of external audit participation.

Hence, the audit committee should request the external auditors to submit their

⁹⁵³ Bursa Malaysia. (2017).

⁹⁵⁴ Ibid

findings on weaknesses in internal control observed during the financial audit and to highlight the results disputed by management or where management has not agreed to implement corrective actions which would rectify the reported weaknesses⁹⁵⁵. As part of the outstanding oversight process, the audit committee should submit the management letter issued and consider management's response to the findings and recommendations of the external auditors, in particular deficiencies in internal controls to be addressed⁹⁵⁶.

Further, Independence is the cornerstone of a well-functioning audit committee; in this regard Practice, 8.4 of the MCCG stipulates, "The Audit Committee should comprise solely of Independent Directors". The ability of its members to exercise their governance in an informed and impartial manner is important to fulfill the mandate of the Audit Committee, particularly in the areas of financial reporting, transactions with related parties, conflicts of interest, internal control environment also internal and external audits processes⁹⁵⁷. However, the core functions of the audit committees provided for in many, if not all, global governance documents are expressed in terms of "assessment", "evaluation" or "review" of the above-mentioned areas. Such responsibilities would, of course, require members of the audit committee to apply in a critical and objective manner an empirical perspective on

⁹⁵⁵ Hussain, M. A., & Hadi, A. R. A. "Corporate Governance, Small Medium Enterprises (SMEs) and Firm's Performance." *International Journal of Business and Management* 13, no. 2 (2018): 14.

⁹⁵⁶ Audit committee institute., "Audit Committee Handbook" .(2015). Available at: <https://home.kpmg.com/content/dam/kpmg/cy/pdf/aci-handbook-kpmg.pdf>

⁹⁵⁷ Bursa Malaysia. (2017).

relevant matters, particularly in areas involving a high degree of governance⁹⁵⁸.

In the sequence of establishing a fully independent audit committee, boards are not expected to relinquish skill sets and make impractical changes to the composition of the audit committee⁹⁵⁹. For the sake of creating an environment conducive to the in-depth deliberations of the audit committee, the boards must ensure that members of the independent audit are financially knowledgeable and have sufficient understanding of the company's business⁹⁶⁰. In this point, practice 8.5 of MCCG stated that.

“... the Audit Committee should possess a wide range of necessary skills to discharge its duties. All members should be financially literate and are able to understand matters under the purview of the Audit Committee including the financial reporting process”.

Therefore, members of the independent audit committee with the above qualities are able to conduct intelligent reviews of procedure, transactions and information on matters within their jurisdiction as well as apply a critical view of the assertions made by management.⁹⁶¹

On the contrary to principles five and six of the MCCG 2012 described in chapter four, the 2017 Code of CG has separated between the audit committee chairman and the chairman of the board. The Code also recommends a step-up practice for the

⁹⁵⁸ Ibid.

⁹⁵⁹ Dias, António, Lúcia Lima Rodrigues, and Russell Craig. "Corporate governance effects on social responsibility disclosures." *Australasian Accounting Business & Finance Journal* 11, no. 2 (2017).

⁹⁶⁰ Bursa Malaysia., (2017).

⁹⁶¹ Audit committee institute., (2015).

committee to comprise independent directors only. In short, recognising the need for objectivity among the members of the audit committee, the regulators have placed considerable emphasis on the composition of this audit with a focus on its chairman as indicated in paragraphs 15.09 (1), 15.10 and 5.18 of BMLR. The separation of these two posts is, therefore, necessary to enable the chairman of the committee to devote adequate time to the committee's affairs. The chairman of the board and the board committee will result in the director being given additional responsibilities, making his or her tasks or tasks somewhat difficult.

7.2.2.2 Risk Management and Internal Control Framework

The Board of Directors should guarantee that there is a framework of prudent and effective internal control and risk management systems which enables risk to be assessed and managed⁹⁶². Further considerations on the development of the framework for internal controls and risk management. In line with the MCCG, practice 9.1 highlights that “The board should establish an effective risk management and internal control framework”. Likewise, the board of directors must be aware of significant financial and non-financial elements that can lead to exposure and change of company risk. In this regard practice, 9.2 of the code indicates that “The board should disclose the features of its risk management and internal control framework, and the adequacy and effectiveness of this framework”. In addition, the board of

⁹⁶² Kaya, I. "Perspectives on Internal Control and Enterprise Risk Management." In Eurasian Business Perspectives, pp. 379-389. Springer, Cham, (2018).

directors should identify risk appetite in which the board expects management to work and ensures an appropriate risk management framework to identify, analyse, monitor and respond to risk factors.

In order to do this, the board of directors must ensure that candidates appointed to senior management positions are sufficiently efficient and that the collective competence of senior management will allow them to effectively lead the company's operations⁹⁶³. The board of directors should also be convinced that there are plans in place to provide orderly succession to board members and senior management⁹⁶⁴. Lack of succession planning can lead to hasty promotion of individuals who may be unsuitable or unprepared for the position⁹⁶⁵.

Furthermore, practice 10.1 states that “The Audit Committee should ensure that the internal audit function is effective and able to function independently”. The internal audit function that can be conducted within the corporation or outsourcing, including the outsourcing of internal auditors, should be based on the requirements of an "independent and objective" function. At any time, the audit committee should ensure that the internal audit function has a reporting line that enables it to be independent of management for the exercise of objectivity and whether internal audit officers are free of any relationship or conflict of interest that could impair their

⁹⁶³ Bumi Armada Berhad., "Board Charter". (2017). available at: <http://www.bumiarmada.com/AppFile/Image/assets/Board%20Charter.pdf>

⁹⁶⁴ Bursa Malaysia., (2017).

⁹⁶⁵ Bursa Malaysia., (2017).

objectivity and independence⁹⁶⁶. In addition, the audit should be responsible for making a decision on appointment and cancellation, as well as evaluating performance and rewarding staff in the internal audit function. The internal audit function should also be granted direct and unrestricted access to information, records, physical property and personnel to enable it to fulfill its mandate⁹⁶⁷.

Given the changing nature of market risks and the agenda of the audit committee, the board remains responsible for risk management and internal controls, and the examination of the framework (i.e. its design and effectiveness) is often examined by the board committee, usually the risk management and the audit committee⁹⁶⁸. In some entities, these committees are combined. It is important that members of the committee have a good knowledge of risk management concepts and internal controls, and be able to assess risk objectively because of the self-interest and pressure to achieve returns. The statements made by management may not represent the real picture.⁹⁶⁹

In conclusion, the MCCG 2017 is compatible with the principles of MCCG 2012 which state that companies should ascertain the risk appetite for the business by setting appropriate risk management and internal control policies. As stated in the step-up practice, it is recommended that the board establish a risk management

⁹⁶⁶ Practice 10.2 of the MCCG (2017).

⁹⁶⁷ MBSB BANK., "Terms of Reference of Audit Committee". Malaysia Building Society Berhad. (2018). Available at: http://www.mbsb.com.my/audit_committee.rev.

⁹⁶⁸ Bursa Malaysia., (2017).

⁹⁶⁹ Ibid

committee which comprises the majority of independent directors to oversee the company's risk management framework, policies and its implementation. This is also in line with section 246 (1) of CA 2016 and paragraph 15.12 (1), 15.23 and 15.26 (b) of BMLR, which outline the internal controls and risk management while the censuses in this regard of financial institutions are encapsulated in BNM's policy document on CG.

7.2.3 Integrity in Corporate Reporting and Meaningful Relationship with Stakeholders

This part will study two main elements which are; Communication with Stakeholders and Conduct of General Meetings

7.2.3.1 Communication with Stakeholders

The board should promote effective and timely communication with stakeholders. Actions in this regard should include how the company considers feedback from stakeholders when making business decisions. In this respect, practice 11.1 of MCCG indicates that. "The board ensures there is effective, transparent and regular communication with its stakeholders". Furthermore, the board must ensure that there is a good reporting framework, including financial and non-financial reports. CG's outstanding disclosures, sustainability and other non-financial aspects should be

revealed⁹⁷⁰.

To this end, practice 11.2 of MCCG encourages large companies to adopt integrated reports on the basis of a globally recognised framework. The integrated report provides a way for companies to create a more concise report that may include details that can be tailored to meet the needs of a variety of stakeholders associated with the company⁹⁷¹. Integrated reporting facilitates the linking of information by linking factors such as strategy, available resources and performance. The integrated report also helps management and the board better understand the business process and the issues they face more clearly, allowing them to better articulate their business strategy to stakeholders⁹⁷².

In line with principle 7 of the MCCG 2012, the new code states that the communication with stakeholders is essential to building trust and understanding between the company and its stakeholders. It provides stakeholders with a better appreciation of the company's objectives and the quality of its management. Similarly, chapter 9 of BMLR (paragraph 9.01.9.21 (2) (a), (b) and 9.21) requires an included source to have good corporate disclosure policies and effective communication channels to ensure the dissemination of material information and in a timely and reliable manner by the Issuer listed to the exchange, its shareholders and other stakeholders. Further, it is necessary to understand that communication

⁹⁷⁰ Ibid

⁹⁷¹ Bursa Malaysia., (2017).

⁹⁷² Ibid

depends on the nature of the stakeholders with whom the company deals. When dealing with stakeholders, companies should consider taking advantage of technology as it facilitates the dissemination of information in more fluently and comprehensively.

7.2.3.2 Conduct of General Meetings

In view of the importance of the general meetings, it is fundamental that the notification of these meetings is submitted to shareholders in a timely manner to give them enough time to consider the decisions to be argued and decided at the meeting⁹⁷³. Practice 12.1 of MCCG invites companies to provide a notice period of at least 28 days for AGMs based on enabling shareholders with a sufficient preparation period to make informed voting decisions at general meetings. The necessity for a longer notice period also reflects changes in the market, characterised by, inter alia, globalisation (increased participation of foreign investors in the domestic market), increased volume of information reported, and more complex transactions, all requiring more time to be prepared by shareholders⁹⁷⁴.

Furthermore, the code indicates in practice 12.2 that “All directors attend General Meetings. The Chair of the Audit, Nominating, Risk Management and other committees provide a meaningful response to questions addressed to them”. This refers to the importance of the general meeting for shareholders to meet and engage

⁹⁷³ Mgamal, M. H., Bardai, & Ku Ismail, K. N. (2018).

⁹⁷⁴ Ibid

the board⁹⁷⁵. The interaction with the board of directors allows shareholders to hear directly from the directors on how the board manages the company's affairs. This also provides an opportunity for shareholders to ask questions directly on issues such as governance, remuneration and auditing for members of the board committee who are involved in the respective processes⁹⁷⁶. It is therefore substantial that board members ensure attendance at general meetings in order to enable more forthcoming communication with shareholders⁹⁷⁷.

Basically, there have been increasing calls for longer-term participation by shareholders, particularly to enable those who cannot attend in person to participate in the general meeting process. There has been a shift from traditional proxy voting to e-voting with many companies, especially in the UK and Taiwan, resulting in significant progress in this regard to facilitate voting in absentia⁹⁷⁸. MCCG in practice 12.3 stated that the board of directors must take proactive action to ensure that shareholders are able to participate in general meetings. In order to facilitate greater shareholder participation, it is important that the company consider leveraging technology such as webcasting and/or e-voting that can enhance the quality of participation with shareholders⁹⁷⁹.

In line with principle 8 of 2012 code, the MCCG 2017 has introduced additional

⁹⁷⁵ Bursa Malaysia., (2017).

⁹⁷⁶ Davies, Paul L. "The board of directors: composition, structure, duties and powers." Paper on Company Law Reform in OECD Countries: A Comparative Outlook of Current Trends (2000).

⁹⁷⁷ Bursa Malaysia., (2017).

⁹⁷⁸ Bursa Malaysia., (2017).

⁹⁷⁹ Ibid

requirements to improve shareholder participation and engagement with the board at general meetings which include a 28-day notice before the date of the meeting. On the other hand, CA 2016 requires only at least 21 days, but it also states that all the directors should attend the meeting and for companies with large numbers of shareholders or have meetings in remote locations to leverage on technology to facilitate electronic voting and remote shareholders' participation. This principle corresponds to sections 310, 311, 316 and 319 of CA 2016, paragraph 7.15 of BMLR. The new amendments aim to reflect the global principles and internationally recognised standards and practices of corporate governance. As such, adherence by companies to the MCCG will catapult Malaysian companies to be on par with international standards of governance.

7.3 Conclusion

The MCCG 2017 is an important milestone in Malaysia's continued journey in promoting good corporate governance to ensure the sustainability and resilience of the capital market. It serves as a compass for boards to steer their companies forward and deepen the understanding of the importance of CG. It also promotes a corporate culture of accountability and transparency, creating the conditions necessary to maintain and raise investor confidence. However, a key feature of the new code is the introduction of the Comprehend, Apply and Report (CARE) approach, and the shift from 'comply or explain' to 'apply or explain an alternative' meant to encourage listed companies to put more thought and consideration when adopting

and reporting their corporate governance practices.

The study found that the new code of MCCG 2017 is an extension of the previous code as explained in chapter four with some improvements in the board composition which requires large companies to have more than 50% of board members independent since the chairman is not also an independent director. For large companies with a value of less than RM2billion, the board of directors also sets a nine-year limit on independent directors after which the approval of the shareholders is approved annually to extend the term of service. The length of tenure has not changed, but annual shareholders' approval is required from 9 to 12 years only. As a result, the demand for independent directors is likely to increase as vacancies become available over time. Thus, the study proposes that long tenure of independent directors shall result in lower reliability of earnings reported in financial accounts by the investors due to their concern with the directors' independence. Moreover, the revisions of MCCG require companies to disclose the remuneration of each director, including fees, salaries, bonuses and other rewards. These changes, aimed at improving integrity in decision-making and effective management oversight, inevitably create additional demand for independent managers.

In contrast to the MCCG 2012, the amendment of the code of CG aims to introduce some significant changes and recommendations of the chairman of the companies through the separation of the audit committee chairman and the chairman of the board. This kind of separation is necessary to enable the chairman of the committee

and the board to practice their function easily and flexibly, which could bring great benefits to the company in particular and the market in general and strengthen the relationship with the public investors.

The study also shows that the MCCG of 2012 is almost similar to the amendments of the MCCG 2017 on the communication with stakeholders to build trust and understanding between the company and its stakeholders. Also, the MCCG 2017 has introduced requirements to improve shareholders' participation and engagement with the board at general meetings and make it not only available in the company annual report but also at the website. Further, the new amendments are aimed to reflect the global principles and internationally recognised standards and practices of corporate governance. As such, adherence by companies to the MCCG will catapult Malaysian companies to be on par with international standards of governance.

Finally, the study suggests that listed companies should request the determination of the plans of the CG based on the current reporting year and future reporting years. In this regard, a discussion should be held on the key areas of the CG activities and priorities during the financial year, focusing on the main aspects of the CG that the companies fared well and less favourably during the financial year. Also, there should be disclosures about the expected improvement considerations by the listed companies within a specific time frame and future strategies that will help them achieve their objectives. For this need, paragraph 15.25 of BMLR requires companies to disclose their application to MCCG.

CHAPTER EIGHT

CONCLUSION AND RECOMMENDATIONS

8.1 Introduction

This chapter discusses the key findings and gives additional insights into the application of disclosure principles and policy in PLCs in Malaysia. The chapter is organised as follows. A summary of the findings, recommendations of the study, the main limitations of this study and present suggestions for future research.

8.2 Discussion

This study was motivated by the issues arising from the Asian crisis of 1997. One issue was the major loophole in CG practices that had provided opportunities for the industry and government to thoroughly reform CG to regain the confidence of investors, resulting in the issuance of MCCG and BMLR. The establishment of these regulations was purported to have a significant impact on the corporate financial reporting environment in Malaysia. Since the annual reports served to be the main communication channel between companies and their investors, both at the national and the international levels, regulation of corporate disclosure is deemed necessary to safeguard the interest of the public especially the stakeholders who have a direct interest in the enterprise.

The results of the study revealed that most Malaysian PLCs were aware of disclosure

requirements. However, they were not aware of how to measure, report and disclose this information in their annual report. The finding is consistent with the conclusion made by Guthrie and Petty (2000) who concluded that Australian companies reported less disclosure of material information in their annual reports due to the poor understanding inadequately identified, inefficiently managed and reported in a consistent framework. Furthermore, corporate disclosure quality would be largely determined by the willingness of the management of company either to disclose information that merely satisfies the minimum requirements of law or to go beyond that by providing additional information to help investors understand the company's affairs, reduce the gap between the company and the investors, and assist the investors in making their decision about the company. However, investors have become more vigilant and more demanding for sufficient transparency, disclosure and suitable corporate financial reporting so that they can make better decisions on a timely and informed basis, forcing the regulators in Malaysia to keep improving the rules and regulations for sound CG practices. Research has shown that transparency through disclosures in annual reports of the best practices of CG provided investors with information and confidence in a company.

The motivations of this study were as follows. Initially, the majority of the prior studies focused on CG structures and the performance of Malaysian PLCs⁹⁸⁰ while the application of disclosure principles was overlooked. It is also widely acknowledged that only a few studies investigated the companies' best practice in

⁹⁸⁰ Ponnu, Cyril H. "Corporate governance structures and the performance of Malaysian public listed companies." *International Review of Business Research Papers* 4, no. 2 (2008): 217-230.

Malaysia⁹⁸¹. Also, Malaysia is one of the countries that seek to have a global and strong capital market to attract investors from around the world. It is also considered one of the pioneer countries in East Asia that applied high standards of CG, which were established in 2000 while still there were no specific rules regarding the best practices among listed companies.

Hence, this study was undertaken to analyse the law and policy of corporate disclosure applicable to PLCs, examine the application of the CG principles and BMLR among PLCs, investigate the best practices of disclosure policy amongst PLCs, and suggest improvements to the disclosure policies and the law of PLCs in Malaysia. To achieve these objectives, an extensive literature review was conducted. Table 7.1 summarises the research objectives, the research method, the research findings, and recommendations.

Table 7.1

Summary of findings

Chapter	Research Objectives	Method	Findings	Recommendations
Four	To analyse the law and policy of corporate disclosure which applicable to	Comparative and analytical analysis	Crucially applicable	To specify special code for disclosure and make it compulsory

⁹⁸¹ Francis, Sebastian K., Muhammad Madi Abdullah, Lawrence Arokiasamy, and Pek Hoo Chun. "Corporate Governance Best Practices for Increased Financial Performance of Public Listed Companies in Malaysia" (2008).

PLCs

Five	To examine the application of the CG principles and BMLR among PLCs.	Content analysis	Significant	To disclose more details of the companies responsibilities of disclosing material information.
Six	To analyse the best practice of disclosure policy amongst PLCs.	Content analysis	Slightly significant	To set up mandatory rules and regulations for the companies to implement high level of best practice, enhance investor confidence and improve the integrity of the companies performance.

8.2.1 The Law of Disclosure

The first objective of the study was to provide an analysis on the law and policy of corporate disclosure among PLCs. The discussion revolved around Malaysian regulations that happened after the crisis in 1997 and based on the reforms agenda contained in the CMSA 2007 and CA 2016. Table 7.2 shows salient items that poorly in compliance, the existing rules and regulations of disclosure law, then the suggested amendments and recommendations.

Table 7.2

The law of disclosure

No	Item	Existing	Amendment	Remark
1	Disclosure principles	Sc. 95. (1) “A holder of a Capital Markets Services Licence shall furnish such returns and provide such information relating to its business as the Commission may require.	A holder of a Capital Markets Services Licence shall furnish such returns and provide any material information that may conflict with investors to make an investment decision.	The CMSA indicated general material information that a person required to disclose while the type of this material that would conflict the public to make an investment decision is founded in the BMLR.

As indicated in chapter four, the MCCG code has eight principles and a number of recommendations for each of the principles. The study determined that most of the PLCs have implemented the different principles and recommendations even though the principles are voluntary as adoption depends on the willingness of the company. If companies decide to execute the recommendations, they can strengthen their governance, thereby creating a situation that can benefit the shareholders. Apart from profit, the MCCG at least pushed the board and other sub-committees to execute their duties efficiently. The study also determined that the listed companies by implementing the MCCG have experienced a slight improvement in their financial

performance and general development. Thus, there was a significant relationship between transparency disclosure of PLCs through their adoption of MCCG and their overall performance financially because upholding the MCCG code enabled the companies to gain shareholder and stakeholder trust. Also, CG plays an important role in ensuring that the companies maintain financial stability and success by enabling to remain liquid despite financial uncertainty and volatile market conditions. Therefore, it is important for companies to regard the recommendations as an opportunity to increase their CG rating. When a company is well rated, new investors are attracted while good impression and confidence are created by the shareholders. The adoption will help improve the overall performance and reduce fraud while the company's reputation is better enhanced. Also, the core values such as independence, transparency, integrity, fairness and accountability, and so on can be improved.

The results showed that the extent of the disclosure in annual reports varied among companies. Even though compliance with mandatory disclosure requirements in Malaysia is mandated by law, and the companies acknowledged that they complied with the principles of the disclosure, the study found that only some of the companies met the disclosure requirements. Furthermore, the result also showed that the requirement specifies that companies include in their annual reports the statement of internal control, statement of CG, the board of directors' composition, the composition of the audit committee, a quorum of the audit committee, and any other statements by the board of directors. Further, the study revealed that the MCCG had strongly advocated for the separation of duties between the CEO and chairman even though the BMLR does not emphasise this as a criterion. The study also showed a

quality level of disclosures by listed issuers on the BMLR and MCCG. The study further demonstrated that companies complied highly with BMLR. The review further showed that companies also embraced the principles of the MCCG and, in most aspects, adopted its recommendations.

Additionally, the result of this study revealed that BM should maintain high standards of CG to establish the integrity of the market as it is the role of BM to monitor the level of adherence to CG standards by performing constant reviews of CG disclosures in annual reports. Also, the companies need to reflect the more comprehensive picture of their businesses including the non-financial and sustainability aspects of their operations. The BM also engages listed issuers on their shortcomings on disclosure to ensure sufficient and precise information about their CG practices. Under financial reporting, as per principle 5, the result noted a high rate of listing requirements compliance but “generally not of very high quality especially where the summary of activities of the audit committee is concerned”. Principle 5 essentially considers the role of the audit committee in ensuring that reliable financial statements are rolled out.

The result also shed light on the role of the committee in evaluating the appropriateness and autonomy of external auditors. About the annual reports, the result demonstrated that the bulk of the listed issuers reviewed had an inclination of repeating the audit committee terms of reference or audit plan as described in the audit committee’s activities, which indicated that the audit committee reports used a “tick-box” approach rather than engaging in meaningful disclosures. Furthermore, it was shown that there was a lack of disclosure on whether boards had the policy to

assess the suitability and independence of external auditors. In this regard, the study revealed the significance of increased disclosure of timely and accurate information to avoid insider trading, avoid asymmetric information, protect shareholder and promote compliance with the law, principles and requirements of corporate disclosure among PLCs.

Additionally, the study revealed the significance of information disclosure in the annual reports as highlighted in principle 7 of the MCCG and the disclosure sections of the BMLR which both consider an important and efficient means of protecting shareholders. The study also showed that the adequate and timely information about corporate performance enabled investors to make informed decisions and thereby helped the market reflect the value of a corporation under present management. The study also demonstrated in principle 7 of MCCG and the provisions of the BMLR the responsibilities of the directors to ensure high-quality financial statements of the companies under study. The study further showed that high quality and accurate disclosure could reduce information asymmetry and clarify the conflict of interests between the shareholders and the management. Furthermore, the results highlighted the significance of the CMSA in the development of MCCG. It also showed that the main thrust of CMSA is to improve and elucidate disclosure for companies to deliver information to their stakeholders. The CMSA provision also aligns with principle 7 of the MCCG that stipulates the necessity for companies to guarantee proper disclosure policies and procedures. So, it can be concluded that the MCCG is adopted with CMSA.

The results also showed that the CA 2016 provides a number of disclosure

requirements that have to be fulfilled by the majority shareholder of a company. Shareholders should also, in writing, notify the company of their interest. More so, where the shareholder changes his/her interest, the appropriate authorities should be notified in writing, with full details of the change, including the reason for which that changes occurred. Where a person ceases to be a substantial shareholder in a company, he or she shall also notify the company and share a copy of the notice with the SC.

The study found occasional mismatches between what is expected by the regulators and what is understood by the corporations. That is, ‘What constitutes a good disclosure versus minimum disclosure? It has been argued that if the reasons and objectives are not well understood, then people will comply for the sake of complying. ‘This is not much different from people who only fasten their seatbelts when they see a policeman up ahead.’ The study also revealed some of the important tools applied in the reforms of the Malaysian CG. The tools put in place were comprehensive and covered a wide spectrum of the disclosure principles, but these regulations dispersed in more than one legal or legislative system, some of which can be found in the MCCG or BMLR while others in CMSA or CA. The dispersion raises the question of ‘Why the legislature does not issue a system that addresses all the disclosure matters under one law or legislation?’

8.2.2 Disclosure of the CG Principles and BMLR among PLCs

To meet the second objective (the application of the CG principles and BMLR in PLCs), the findings revealed a relatively high level of adherence to CG amongst PLCs. The result also showed that PLCs in Malaysian have gone beyond complying

with just the basic governance requirements. Table 7.3 shows salient items that poorly in compliance, the existing rules and regulations of BMLR disclosure, then the suggested amendments and recommendations.

Table 7.3

Disclosure of CG Principles and BMLR

No	Item	Existing	Amendment	Remark
1	Confidential Matters and protection of information	BMLR has indicated a specific sentence of Confidentiality matters while CMSA and CA 2016 did not include it in their rules.	CMSA as well CA 2016 must indicate a paragraph of confidentiality, such as “ Bursa Malaysia must maintain confidentiality while disclosing material information.	BMLR indicated clearly confidentiality matters while the CA and CMSA did not state a clear sentence of confidentiality matters, legislators must take this into consideration.

Based on the findings, all companies performed well in the implementation of good CG. Of the total items analysed, only two of them are fully implemented CG principles and were found to have significantly and positively informed CG disclosure, which includes (good CG and are in line with the principle of CG). Other items include (furnishing necessary information of shares acquired or held, member should inform the company whether he holds any voting shares, disclosure of the nature of the interest in contracts, directors exercising their duties depend on information professional, directors offering notice in writing of shares and

debentures, prompt disclosure of unfavourable material information, and ensuring security measures to protect information) reported good implementation.

About PLCs performance in disclosing the extent to which they were complying with the CG, it was found that 21% of the companies in 2012 did not report the extent of compliance with the CG. This number was reduced to 7% in 2015. The study found that Malaysian companies tended to adopt an approach whereby compliance with the CG is merely declared, with little or no explanation being provided on the extent of compliance. The listed issuers were embracing each principle of the MCCG and adopting the majority of its recommendations. The findings also showed that out of items that have been analysed, only two were reported insignificant to the implementation of the law of disclosure which are confidential matters. It can be noted that in 2012 almost 50% of the companies did not report any information on confidentiality. However, the figure decreased to 41%, 34% and 30% in 2013, 2014 and 2015 respectively. The companies that did not report confidential matters did so because they were concerned about the probable abuse of such opportunities or the frivolities involved in the unauthorised use of confidential information. In addition to the non-reporting of confidential information, 21% of companies in 2012 did not disclose security measures to protect information as suggested in MCCG in their annual reports and simultaneously failed to state the reasons for their non-compliance or disclose any alternative practice. However, the number of companies that did not disclose security measures fell to 11% in 2014 and 15% in 2015. Their failure to do so might be because there is no penalisation clause for non-compliance of such act since MCCG is just a guideline to PLCs and has no legal essence.

In light of the above findings, it is recommended that the BM should introduce a rating and ranking system for the best performance PLCs in complying with the CG of disclosure policy and requirements. Incentives should be granted to the most successful PLCs in adherence to the policy and requirements. In Malaysia, the BMLR have raised the standards of CG of PLCs to enhance investor confidence while the investors today have become more vigilant and more demanding on the disclosure of material information and improve the integrity of the capital market further. However, mere adoption of rules and regulations to improve CG is not effective. What is needed is the effective institutional mechanism, i.e., CG, to supervise and monitor managers not only to reduce agency cost but also to uphold a firm's image and reputation to the public.

Finally, the research suggests developing or implementing policies, procedures or guidelines on in accordance to CG reflections in its investment supervision operations and due diligence, this might cover such parts as commitment to moral CG, the equitable treatment and rights of shareholders, the disclosure and transparency, the composition and responsibilities as well the role of stakeholders of the board. Likewise, education on CG matters to its supervision and investment staff should be offered.

8.2.3 Best Practice of Disclosure Policy among PLCs

The third research objective was about analysing the best practice of disclosure policy among PLCs. Table 7.4 shows salient items that poorly in compliance, the existing rules and regulations of best practices, then the suggested amendments and recommendations.

Table 7.4

Best Practices among PLCs

No	Item	Existing	Amendment	Remark
1	Best practices of disclosure policy	A best practice is voluntary requirements for the companies they might implement it or not as indicated at MCCG while CMSA, CA 2016 and BMLR did not require it in their rules.	Every company must have internal corporate disclosure policies and procedures to ensure high quality of corporate best practices	The regulatory authorities must ensure best practice regulations and make it compulsory.

The findings reported in Chapter Six revealed partial diversity in the format and information provided with regards to directors' control, directors' remuneration, relation with shareholders and accountability, and audit. However, there was a high level of adherence to the best practices amongst PLCs in regarding the board of directors, directors' remuneration and the companies' relations with their shareholders. Furthermore, the findings indicated that 20% of the companies in 2012 failed to report the responsibilities of CEO and chairman, implying that the CEOs and Chairman worked harmoniously to improve the performance of their companies with a view that the stakeholders will be served better for best practices and good earnings. However, the number of companies that did not report the responsibilities of CEO and chairman declined to 15%, 13%, and 12% in 2013, 2014 and 2015 respectively. Regarding the disclosure of remuneration, 21% of the companies in 2012 failed to report, suggesting a high level of remuneration information in their

annual reports and guidelines. The number of the companies that did not report disclosure of remuneration fell to 10% by the year 2015.

Also, the findings showed that some companies did not fully report best practice of their board of directors, including board responsibilities, its appointment, access to information, the board balance, supply of information, and the disclosure of information in respect of directors. Further, the result demonstrated that directors' remuneration of the selected companies was not fully reported in annual reports. For financial reporting, internal control, audit committee, and code of ethics, the findings showed that these items were not fully reported since they were considered voluntary requirements. Therefore, it is suggested that regulatory bodies in Malaysia should stipulate specific code of companies' best practice. Meanwhile, the PLCs in Malaysia should implement a high level of corporate best practice as this will assist in enhancing investor's confidence and improve the integrity of the companies' performance further.

In short, greater transparency in disclosures is essential for effective financial reporting and supervision. By adopting greater financial transparency, companies provide the necessary information for investors to monitor their governance process and behavior. Management needs to avoid excessive disclosures which could impair competitiveness. Increasing transparency will be important key to future success of CG. Only with transparency will it be possible to defer frauds, embezzlement and financial scandals and foster efficiency in allocation of resources decisions. More importantly, transparency and disclosure allow companies to compete on the basis of

their best offerings and to differentiate themselves from companies which do not practice good governance and to stimulate healthy market.

The results also showed the importance of CG theories in disclosing accurate information. The purpose of agency theory is to reduce potential conflicts between managers and the interests of the shareholders. The conflicting interests discourage managers from disclosing their private information because such disclosures reduce their private benefits. Agency theory also affords a foundation of CG through the use of internal CG mechanisms and explains the relationship between board characteristics and firm performance. The results also showed that stakeholder theory played an essential role in explaining governance structures because companies were aware of all stakeholders rather than the shareholders only. The theory also helps explain the maximisation of firm performance and the combined benefits of all stakeholders by considering the interests of all stakeholders. However, there are different perspectives regarding the company. "Many of these theoretical perspectives are intended as complements to, not substitutes for, agency theory"⁹⁸². A review of different perspectives clarifies that there is a need to take an integrated approach rather than a single perspective to understand the effect of good CG. To gain a greater understanding of board process and dynamics, there is a need to integrate different theories rather than consider any single theory. Such an approach was supported by Stiles⁹⁸³ who called for multiple theoretical perspectives and

⁹⁸² Daily, et. al., "Corporate governance: Decades of dialogue and data." *Academy of management review* 28, no. 3 (2003): 371-382. p. 372)

⁹⁸³ Stiles, Philip. "The impact of the board on strategy: An empirical examination." *Journal of management studies* 38, no. 5 (2001): 627-650.

Roberts⁹⁸⁴ who suggested theoretical pluralism.

Finally, after reviewing the data from BM, the researcher found some non-compliant companies that were announced and delisted by BM during 2011-2013. In 2011, six companies were announced as PN17 companies, which represented 6.4% of the total number of 941 companies listed in BM. There were 14 PN17 companies in 2012, representing 1.5% of the total number of 921 companies listed on BM. In 2013, there were 28 PN17 companies, representing 3.1% of the total number of 911 companies listed on BM. Also, there was a list of companies that were unable to be regularised under the BMLR, which were subsequently delisted from the BM and classified under PN17 companies. In 2011, there were 30 companies that were delisted from BM, 37 companies in 2012, and 24 companies in 2013⁹⁸⁵.

Thus, some of these companies were delisted because they were not able to comply with BMLR. Base on the case of the Malaysia Pacific Corp Bhd's which has been announced by BM that the company triggering under Practice Note 17 ("PN17") On June 30, 2014. On Nov 28 the company said its auditors Messrs BDO had expressed a disclaimer opinion, because it was unable to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion, the company's net losses of RM31.14 million and RM176.53 million respectively in the ended June 30, 2014. On Nov 10, 2014 the company fail to submit its annual audited accounts for 2014 on or before Nov 7, 2014. On Jan 30, 2013, the Kuala Lumpur High Court entered a summary judgement against the company for the judgement sum. Subsequently, the subsidiary, the company entered into a settlement agreement with the creditor on

⁹⁸⁴ Roberts et. al., "Beyond agency conceptions of the work of the non-executive director: Creating accountability in the boardroom." *British journal of management* 16, no. s1 (2005).

⁹⁸⁵ Bursa Malaysia. Available at: www.bursamalaysia.com

March 10, 2014 to settle the judgement sum of RM120 million. On 1 December 2014 the company submitted its annual audited accounts for financial year 2014. On 2 December the company start trading in its shares⁹⁸⁶.

Whereas, others were delisted by an order from the company itself.⁹⁸⁷ Like Global Carriers Bhd are under severe financial stress while others like Swee Joo Bhd, Malaysian Merchant Marine Bhd and Nepline Bhd have been delisted due to weak financials.⁹⁸⁸

8.3 Recommendations of the study

This study offers several important recommendations for the regulatory bodies, companies, public investors, and researchers.

Recommendation One: This study recommends that companies especially those in Malaysia must implement the MCCG in their daily operations to conform to the country's rule of law in addition to working towards improvement of their general tasks. There is a need for the Securities Commission to work towards disseminating information about the MCCG and its benefits to the companies and the shareholders. PLCs need to work towards informing their staff on the need and practices expected when it comes to CG and its actual implementation.

Recommendation Two, the MCCG stresses on effective governance principles for the development of capital markets. In this regard, companies need to reflect more comprehensive picture of their businesses including the non-financial and

⁹⁸⁶ The Sun Daily "Malaysia Pacific Corp slips into PN17". (2014). Available at: <http://www.the-sundaily.my/news/1250061>

⁹⁸⁷ Ibid

⁹⁸⁸ Free Malaysia Today. "Ship owners cling to RM3b govt lifeline". Available at: <http://www.freemalaysiatoday.com/category/business/2013/11/06/ship-owners-cling-to-rm3b-govt-lifeline/>

sustainability aspects of their operations. Also, companies must provide an effective risk management framework and process to achieve its performance targets by providing additional risk information to enable better decisions. In addition, there should be a balance of power and authority between the CEO and chairman so no one has unfettered power of decision. And have independent voice to ensure objectivity in decision-making is achieved and that no single party can dominate the discussion and decision.

Recommendation Three, the study showed the relevance of disclosure to enhance the value of PLCs securities and to assist investors in making informed decisions in the MCCG, In continuing to deliver value to investors, directors must exercise greater vigilance and professional in understanding and shaping the strategic direction of the company performance. The regulators must stipulate more details of the companies responsibilities of disclosing material information as well directors interest in order to avoid any future conflict. In addition, they must establish strict policies at the board level to identify, limit, and manage company-level conflicts of interest. Also calls for the development of a research agenda to evaluate and guide improvements in conflict of interest policies and procedures.

Recommendation Four, to have an effective disclosure regime the government as well the regulatory authorities should ideally introduce non-judicial, informal enforcement mechanisms, such as “information requests” and private and public reprimands. It is also important that legislatures and regulators support international collaboration activities and cross-border exchange of information. In order for the companies to ensure high quality of disclosure it must be in line with high quality

internationally recognised standards. Also must organize regular training programs to provide practical guides for full compliance with International Financial Reporting Standards (IFRSs) and International Accounting Standards (IASs).

Recommendation Five, BMLR indicated clearly confidentiality matters while the CA and CMSA did not state a clear sentence of confidentiality matters, regulatory bodies must take this into consideration. Furthermore, regulators must highlight the type of information and the documents that should be protected, especially sensitive information that could affect the market stability. In addition to the type of information that is being disclosed, the regulators must indicate the style and media of disclosure in order for the investors to communicate easily with the companies.

Recommendation Six: There are no mandatory rules for the separation of roles between both chairman and CEO. The adoption is recommended in the Malaysian code to separate the roles of chairman and CEO. A company that and combines the roles of chairman and CEO should have a strong independent element on the board and should be publicly explained. Thus, the regulators and authorities must revise regulation and practices to improve CG since CEO duality has an impact on companies' performance and could promote self-interest of the CEO thereby creating corporate instability.

Recommendation Seven, in order for the companies to supply the financial results enhance the clarity and balance of reporting they should include information needed by an investor to make an informed assessment of the entity's activities and results.

Recommendation Eight: PLCs in Malaysia should implement a high level of corporate best practice and benchmarking to be effective. They should be able to evaluate their practices and identify the relevant areas that will positively affect their performance. By continuously benchmarking their practices with the best practices, the companies can improve the level of competitiveness which will increase the confidence of investors to invest in the capital market and improve the companies' performance.

Recommendation Nine, companies must identify the measures that could be adopted to encourage the reporting of unlawful or unethical behaviour. This might include reference to how the company protects those, such as whistle-blowers who report violations in good faith and its processes for dealing with such reports. Moreover, the regulators should provide a comprehensive guideline on the form and extent of disclosures and ensure adequate enforcement.

Recommendation Ten: The MCCG is formulated to improve investors' confidence in companies. Surely, the code seeks to enhance corporate transparency and disclosure so that shareholders and others can acquire timely and accurate information for effective decisions. One of the necessary listing requirements of the BM is that all PLCs are expected to abide by the requirements and must clarify in details when these requirements are not applied. Obedience to the code is contained and disclosed in the company's yearly reports. Despite this, the principles of MCCG are voluntary. They are flexible just like secondary principles to ascertain better CG practices, for instance, a higher degree of disclosure and transparency.

8.4 Suggestions for Future Research

This study makes a considerable contribution to the exploration of corporate disclosure practices in Malaysia and the role of CG in influencing investors' trust in listed companies. However, a significant amount of research has not been covered by this study, which may be useful for a further study in Malaysia and other Asian countries. Thus, there are numerous ways in which the research study as a whole can be extended.

Firs, future studies should seek ways of creating a form of analysis that can cut across countries by providing studies and research that is easy to duplicate in other countries, there's need to develop general outlook when it comes to CG that results in studies that are not localized to be able to facilitate comparison between countries and regions when it comes to implementation of CG.

Second, the findings of this study were based on the data for 2012-2015 only. Future research in this area might want to extend the scope of the period so that one could have a better understanding of the issues of CG especially in an attempt to relate it to certain events, for example, the introduction of the MCCG or best practices in corporate disclosure by BM and the latest amendments of the MCCG and the CA. Throughout the period of 15 years between 2000 and 2015, there could be events, especially those associated with the CG reform agenda by the authorities (the SC and BM), that might have changed the landscape of corporate disclosure practices. This includes extending to cover all companies in BM either listed or non-listed. A long-time period should be observed to give a clear image to the investors about the company that they are going to invest their money in.

Third, instead of using annual reports and the company guidelines as the main unit of analysis, researchers may also choose other sources of information to capture the disclosure levels by companies such as a company's website, stock exchange's website, brochures, press releases, conference meetings, or letters to stakeholders.

Fourth, one possible avenue for future research is to examine shareholders' and public investors' perceptions of corporate disclosure practices and best practices in developing countries such as Malaysia and the South-east Asian region in general. These stakeholders include shareholders, investors, external auditors, academics, and the public in developing countries. As this study was focused on listed companies in the BM, it is also important to understand the current CG practice in non-listed companies in Malaysia. Therefore, another focuses for future research could be a comparison of the CG practices of listed and non-listed companies in Malaysia.

Finally, future research should conduct a comparative study of the provisions that govern the law and policies of corporate disclosure principles and transparency among listed companies in Malaysia and other developed countries.

8.5 Contributions to Knowledge

Upon a careful consideration of all the outcomes of this research, I identify that the contribution of this thesis is highlighting the gap in the literature from the legal perspective of the present role of disclosure and transparency in enhancing CG and its principles in Malaysia, it also suggestions for the implementation of CG practices, particularly disclosure and transparency, as observed and practiced in Malaysia. In addition, the thesis is contributed the recommendations for the development of the

Malaysian legal framework and practices based on international standards of CG, particularly regarding disclosure and transparency. Finally, the thesis identifies internal and external factors that influence the efficiency of corporate disclosure provisions in Malaysia which inform investment decisions.

8.6 Conclusion

The Asian financial crisis has underlined the need for good CG and better disclosures of information in Malaysia. Regulatory authorities in Malaysia believe that the time is ripe to undertake measures to improve transparency and accountability. However, mere adoption of rules and regulations to improve disclosure is not effective. It is the concerted efforts of those in charge with the direct responsibility for determining corporate policies and practices that are crucial.

CG is admittedly a key factor for corporate disclosure, and special attention from researchers is thus warranted. There has been little research to investigate CG structure with the extent of disclosure requirements and best practices. This study examined the application of disclosure law, principles and requirements among PLCs in Malaysia (good CG, the disclosure of information, and best practice). This study also investigated whether the principles of CG were implemented by the PLCs. Complying with the principles of the MCCG helps companies avoid some of the problems that can affect their performance and investors' trust. The study compared the main regulations on disclosure (MCCG, BMLR, CMSA, and CA) with other provisions (Central Bank of Malaysia Act 2009, SCA, and FSA). Also, the study highlighted the implementation of disclosure practices between the companies and

the BMLR by analysing the companies' annual reports to understand whether they disclosed accurate and sufficient information to investors.

CG is important for PLCs as it guides a company's board of directors to deliver its responsibilities for disclosing material information the investors need. This involves guiding the relationship of the company internally and externally for the best of the company. Through CG, a company could improve its reputation, enhance its competitiveness, and gain investors' confidence. This study examined the implementation of the MCCG among PLCs in Malaysia and its disclosure applications. The study found that CG plays an important role in the success and development of PLCs. Adoption of the MCCG code by the Malaysian companies has resulted in the improved disclosure of information, thereby maintaining the relationship with the general investors.

Also, the study found that the mandatory disclosure requirements set out in law are only minimum requirements, and there are many benefits if companies are willing to disclose more to stakeholders. The most obvious benefit is that this will boost investor confidence in the company – not only will it mean that investors have a better knowledge of the company but also a good record on disclosure will indicate a well-run company. The study also analysed the implementation of the best practices and CG of the Malaysian PLCs by examining the guidelines, the board charter, and the companies' annual reports to know how the companies understand what information should be disclosed to the shareholders and general investors to help them make their investment decisions.

The study contributes to the existing literature by offering valuable insights into the roles of CG, disclosure, and best practices to strengthen the relationship with the shareholders by providing the information they need. To the best knowledge of the researcher, this study is the first to investigate the application of corporate disclosure of material information for the benefits of investors and the public in making informed investment decisions. Furthermore, greater disclosure is essential for financial reporting and supervision. By implementing greater financial disclosure, companies deliver the necessary information for investors to monitor their governance process and behaviour. Management needs to avoid excessive disclosures which could impair competitiveness. Increasing disclosure will be important key to future success of CG. Only with transparency and disclosure will it be possible to avoid frauds, embezzlement and financial scandals and foster efficiency in the allocation of resources decisions. More importantly, disclosure allows companies to compete on the basis of their best offerings and to differentiate themselves from companies which do not practice good governance. To derive the result, the analysis was done based on MCCG 2012 principles which have been incorporated into MCCG 2017. Therefore, the assessment of PLCs had considered the specific principles of MCCG 2012 and acknowledged the similar provisions in MCCG 2017 as illustrated in chapter seven.

In sum, most of the MCCG dimensions may not have a significant relationship with the disclosure of information to PLCs. However, companies should practice good CG and better disclosure within the principles of MCCG 2017, BMLR, CMSA 2007 and CA 2016 to achieve a strong competitive advantage as well as stability.

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Appendix A

Sector Representation of Public-Listed Companies

No	List of Selected Companies	Random	Coding	Sectors
1.	D.B.E. GURNEY RESOURCES BERHAD	8	R26	CONSUMER PRODUCTS
2.	LION FOREST INDUSTRIES BERHAD	41	R68	CONSUMER PRODUCTS
3.	EMICO HOLDINGS BERHAD	20	R32	CONSUMER PRODUCTS
4.	MINTYE INDUSTRIES BHD	33	R76	CONSUMER PRODUCTS
5.	GOLDIS BERHAD	44	R43	CONSUMER PRODUCTS
6.	NESTLE (MALAYSIA) BERHAD	46	R81	CONSUMER PRODUCTS
7.	APEX HEALTHCARE BERHAD	47	R3	CONSUMER PRODUCTS
8.	KHIND HOLDINGS BERHAD	96	R60	CONSUMER PRODUCTS
9.	ASIA FILE CORPORATION BHD	81	R8	CONSUMER PRODUCTS
10.	HOMERITZ CORPORATION BERHAD	82	R47	CONSUMER PRODUCTS
11.	AMTEK HOLDINGS BERHAD	85	R5	CONSUMER PRODUCTS
12.	GOLDEN PHAROS BERHAD	102	R44	CONSUMER PRODUCTS
13.	NI HSIN RESOURCES BERHAD	103	R84	CONSUMER PRODUCTS
14.	CHEE WAH CORPORATION BERHAD	105	R20	CONSUMER PRODUCTS
15.	WANG-ZHENG BERHAD	110	R124	CONSUMER PRODUCTS
16.	CHINA OUHUA WINERY HOLDINGS LIMITED	148	R22	CONSUMER PRODUCTS
17.	LEE SWEE KIAT GROUP BERHAD	112	R66	CONSUMER PRODUCTS
18.	BURSA MALAYSIA BERHAD	113	R21	CONSUMER PRODUCTS
19.	SPRITZER BHD	119	R111	CONSUMER PRODUCTS
20.	BIO OSMO BERHAD	101	R11	CONSUMER

21.	UPA CORPORATION BHD	125	R123	PRODUCTS
22.	PARAGON UNION BERHAD	136	R91	CONSUMER PRODUCTS
23.	HONG LEONG INDUSTRIES BERHAD	130	R48	CONSUMER PRODUCTS
24.	ASIA BRANDS BERHAD	126	R7	CONSUMER PRODUCTS
25.	TPC PLUS BERHAD	153	R121	CONSUMER PRODUCTS
26.	EKOVEST BERHAD	162	R31	CONSUMER PRODUCTS
27.	TAKASO RESOURCES BERHAD	179	R115	CONSUMER PRODUCTS
28.	COASTAL CONTRACTS BHD	175	R23	CONSUMER PRODUCTS
29.	XIN HWA HOLDINGS BERHAD	193	R127	CONSUMER PRODUCTS
30.	EUPE CORPORATION BERHAD	195	R34	CONSUMER PRODUCTS
31.	SIN HENG CHAN (MALAYA) BERHAD	200	R107	CONSUMER PRODUCTS
32.	BOILERMECH HOLDINGS BERHAD	202	R12	CONSUMER PRODUCTS
33.	POWER ROOT BERHAD	209	R100	CONSUMER PRODUCTS
34.	GSB GROUP BERHAD	210	R42	CONSUMER PRODUCTS
35.	EURO HOLDINGS BERHAD	230	R35	CONSUMER PRODUCTS
36.	SERN KOU RESOURCES BERHAD	219	R105	CONSUMER PRODUCTS
37.	SASBADI HOLDINGS BERHAD	221	R103	CONSUMER PRODUCTS
38.	BINTULU PORT HOLDINGS BERHAD	222	R10	CONSUMER PRODUCTS
39.	MNRB HOLDINGS BERHAD	14	R152	FINANCE
40.	OSK HOLDINGS BERHAD	15	R154	FINANCE
41.	ALLIANZ MALAYSIA BERHAD	24	R131	FINANCE
42.	AEON CREDIT SERVICE (M) BERHAD	25	R128	FINANCE
43.	BIMB HOLDINGS BERHAD	32	R134	FINANCE
44.	SYARIKAT TAKAFUL MALAYSIA BERHAD	40	R160	FINANCE
45.	AMMB HOLDINGS BERHAD	76	R132	FINANCE
46.	CHUAN HUAT RESOURCES BHD	100	R136	FINANCE

47.	AFFIN HOLDINGS BERHAD	129	R129	FINANCE
48.	HOMERITZ CORPORATION BERHAD	183	R139	FINANCE
49.	GRAND CENTRAL ENTERPRISES BHD	258	R162	HOTELS
50.	UCHI TECHNOLOGIES BERHAD	730	R383	INDUSTRIAL PRODUCTS
51.	SUPERLON HOLDINGS BERHAD	4	R363	INDUSTRIAL PRODUCTS
52.	ASTRAL SUPREME BERHAD	6	R183	INDUSTRIAL PRODUCTS
53.	PRICEWORTH INTERNATIONAL BERHAD	7	R330	INDUSTRIAL PRODUCTS
54.	GUH HOLDINGS BERHAD	11	R239	INDUSTRIAL PRODUCTS
55.	SLP RESOURCES BERHAD	10	R354	INDUSTRIAL PRODUCTS
56.	DENKO INDUSTRIAL CORPORATION BERHAD	12	R213	INDUSTRIAL PRODUCTS
57.	SOUTHERN ACIDS (M) BERHAD		R336	INDUSTRIAL PRODUCTS
58.	HARTALEGA HOLDINGS BERHAD	27	R242	INDUSTRIAL PRODUCTS
59.	SUBUR TIASA HOLDINGS BERHAD	21	R359	INDUSTRIAL PRODUCTS
60.	CHIN WELL HOLDINGS BERHAD	26	R202	INDUSTRIAL PRODUCTS
61.	CYMAO HOLDINGS BERHAD	37	R211	INDUSTRIAL PRODUCTS
62.	RESINTECH BERHAD	38	R334	INDUSTRIAL PRODUCTS
63.	YEN GLOBAL BERHAD	39	R392	INDUSTRIAL PRODUCTS
64.	WEIDA (M) BHD	43	R390	INDUSTRIAL PRODUCTS
65.	TOMYPAK HOLDINGS BERHAD	3	R378	INDUSTRIAL PRODUCTS
66.	EMAS KIARA INDUSTRIES BERHAD	51	R220	INDUSTRIAL PRODUCTS
67.	TECK GUAN PERDANA BERHAD	53	R371	INDUSTRIAL PRODUCTS
68.	AE MULTI HOLDINGS BERHAD	55	R172	INDUSTRIAL PRODUCTS
69.	LAFARGE MALAYSIA BERHAD	57	R277	INDUSTRIAL PRODUCTS
70.	KIAN JOO CAN FACTORY BERHAD	88	R267	INDUSTRIAL PRODUCTS

71.	WTK HOLDINGS BERHAD	62	R395	INDUSTRIAL PRODUCTS
72.	CENTRAL INDUSTRIAL CORPORATION BERHAD	86	R205	INDUSTRIAL PRODUCTS
73.	GOODWAY INTEGRATED INDUSTRIES BERHAD	84	R235	INDUSTRIAL PRODUCTS
74.	TECNIC GROUP BERHAD	91	R372	INDUSTRIAL PRODUCTS
75.	SKP RESOURCES BHD	92	R353	INDUSTRIAL PRODUCTS
76.	TIMBERWELL BERHAD	95	R377	INDUSTRIAL PRODUCTS
77.	UMS HOLDINGS BERHAD	97	R394	INDUSTRIAL PRODUCTS
78.	MULTI-USAGE HOLDINGS BERHAD	98	R303	INDUSTRIAL PRODUCTS
79.	HAI-O ENTERPRISE BERHAD	106	R268	INDUSTRIAL PRODUCTS
80.	TOYO INK GROUP BERHAD	124	R381	INDUSTRIAL PRODUCTS
81.	V.S. INDUSTRY BERHAD	111	R387	INDUSTRIAL PRODUCTS
82.	SEREMBAN ENGINEERING BERHAD	121	R349	INDUSTRIAL PRODUCTS
83.	HIAP TECK VENTURE BERHAD	116	R247	INDUSTRIAL PRODUCTS
84.	SOUTHERN STEEL BERHAD	141	R357	INDUSTRIAL PRODUCTS
85.	FIAMMA HOLDINGS BERHAD	140	R228	INDUSTRIAL PRODUCTS
86.	STONE MASTER CORPORATION BERHAD	123	R358	INDUSTRIAL PRODUCTS
87.	LUXCHEM CORPORATION BERHAD	127	R287	INDUSTRIAL PRODUCTS
88.	KECK SENG (MALAYSIA) BERHAD	128	R265	INDUSTRIAL PRODUCTS
89.	THONG GUAN INDUSTRIES BERHAD	115	R374	INDUSTRIAL PRODUCTS
90.	PETRON MALAYSIA REFINING & MARKETING BHD	104	R319	INDUSTRIAL PRODUCTS
91.	RAPID SYNERGY BERHAD	135	R333	INDUSTRIAL PRODUCTS
92.	GREEN PACKET BERHAD	137	R237	INDUSTRIAL PRODUCTS
93.	HIBISCUS PETROLEUM BERHAD	146	R249	INDUSTRIAL PRODUCTS

94.	KONSORTIUM TRANSNASIONAL BERHAD	149	R273	INDUSTRIAL PRODUCTS
95.	SHELL REFINING COMPANY (FEDERATION OF MALAYA) BERHAD	150	R350	INDUSTRIAL PRODUCTS
96.	HEKTAR REAL ESTATE INVESTMENT TRUST	155	R244	INDUSTRIAL PRODUCTS
97.	MINHO (M) BERHAD	164	R298	INDUSTRIAL PRODUCTS
98.	INDUSTRONICS BERHAD	172	R255	INDUSTRIAL PRODUCTS
99.	SEALINK INTERNATIONAL BERHAD	173	R348	INDUSTRIAL PRODUCTS
100.	CYCLE & CARRIAGE BINTANG BERHAD	174	R210	INDUSTRIAL PRODUCTS
101.	JAKS RESOURCES BERHAD	176	R259	INDUSTRIAL PRODUCTS
102.	MUAR BAN LEE GROUP BERHAD	177	R290	INDUSTRIAL PRODUCTS
103.	CAELY HOLDINGS BHD	191	R206	INDUSTRIAL PRODUCTS
104.	GLOMAC BERHAD	199	R232	INDUSTRIAL PRODUCTS
105.	OCTAGON CONSOLIDATED BERHAD	196	R308	INDUSTRIAL PRODUCTS
106.	CHOO BEE METAL INDUSTRIES BHD	205	R204	INDUSTRIAL PRODUCTS
107.	MALAYSIA PACIFIC CORPORATION BERHAD	206	R189	INDUSTRIAL PRODUCTS
108.	CREST BUILDER HOLDINGS BERHAD	211	R209	INDUSTRIAL PRODUCTS
109.	PERISAI PETROLEUM TEKNOLOGI BHD	213	R314	INDUSTRIAL PRODUCTS
110.	MIECO CHIPBOARD BERHAD	215	R297	INDUSTRIAL PRODUCTS
111.	HO WAH GENTING BERHAD	220	R250	INDUSTRIAL PRODUCTS
112.	WOODLANDOR HOLDINGS BHD	225	R393	INDUSTRIAL PRODUCTS
113.	TAS OFFSHORE BERHAD	226	R367	INDUSTRIAL PRODUCTS
114.	EVERSENDAL CORPORATION BERHAD	228	R225	INDUSTRIAL PRODUCTS
115.	SUPER ENTERPRISE HOLDINGS BERHAD	234	R362	INDUSTRIAL PRODUCTS
116.	BRITISH AMERICAN TOBACCO (MALAYSIA) BERHAD	250	R193	

117.	MULTI-CODE ELECTRONICS INDUSTRIES (M) BHD	240	R304	INDUSTRIAL PRODUCTS
118.	COCOALAND HOLDINGS BERHAD	247	R208	INDUSTRIAL PRODUCTS
119.	ASTRO MALAYSIA HOLDINGS BERHAD	255	R184	INDUSTRIAL PRODUCTS
120.	KIMLUN CORPORATION BERHAD	257	R269	INDUSTRIAL PRODUCTS
121.	DIGI.COM BERHAD	167	R400	IPC
122.	PUNCAK NIAGA HOLDINGS BERHAD	419	R402	IPC
123.	GOLDEN LAND BERHAD	52	R418	PLANTATIONS
124.	UNITED PLANTATIONS BERHAD	64	R448	PLANTATIONS
125.	TDM BERHAD	83	R442	PLANTATIONS
126.	BOUSTEAD PLANTATIONS BERHAD	90	R410	PLANTATIONS
127.	MHC PLANTATIONS BHD	89	R432	PLANTATIONS
128.	MALPAC HOLDINGS BERHAD	118	R431	PLANTATIONS
129.	PLS PLANTATIONS BERHAD	122	R436	PLANTATIONS
130.	HAP SENG CONSOLIDATED BERHAD	178	R421	PLANTATIONS
131.	PMB TECHNOLOGY BERHAD	217	R433	PLANTATIONS
132.	SUNGEI BAGAN RUBBER COMPANY (MALAYA) BERHAD	223	R439	PLANTATIONS
133.	PINEHILL PACIFIC BERHAD	243	R435	PLANTATIONS
134.	FEDERAL FURNITURE HOLDINGS (M) BERHAD	251	R416	PLANTATIONS
135.	FAJARBARU BUILDER GROUP BHD	256	R415	PLANTATIONS
136.	EASTERN & ORIENTAL BERHAD	2	R461	PROPERTIES
137.	LBI CAPITAL BERHAD	30	R485	PROPERTIES
138.	YTL LAND & DEVELOPMENT BERHAD	50	R537	PROPERTIES
139.	PASDEC HOLDINGS BERHAD	65	R504	PROPERTIES
140.	COUNTRY VIEW BERHAD	77	R458	PROPERTIES
141.	MALAYSIA PACIFIC CORPORATION BERHAD	74	R497	PROPERTIES
142.	ENCORP BERHAD	67	R463	PROPERTIES
143.	LAND & GENERAL BERHAD	142	R484	PROPERTIES
144.	DAIMAN DEVELOPMENT BHD	144	R459	PROPERTIES
145.	SUNWAY BERHAD	143	R516	PROPERTIES
146.	COUNTRY HEIGHTS HOLDINGS BHD	156	R456	PROPERTIES
147.	MUI PROPERTIES BERHAD	157	R498	PROPERTIES
148.	TITIJAYA LAND BERHAD	181	R523	PROPERTIES
149.	ESTHETICS INTERNATIONAL GROUP BERHAD	184	R465	PROPERTIES
150.	BIMB HOLDINGS BERHAD	201	R453	PROPERTIES
151.	ASIAMET EDUCATION GROUP BERHAD	204	R451	PROPERTIES
152.	KEJURUTERAAN SAMUDRA TIMUR	208	R482	PROPERTIES

	BERHAD			
153.	MATRIX CONCEPTS HOLDINGS BERHAD	218	R491	PROPERTIES
154.	GUNUNG CAPITAL BERHAD	249	R471	PROPERTIES
155.	SYMPHONY LIFE BERHAD	263	R517	PROPERTIES
156.	BATU KAWAN BERHAD	246	R452	PROPERTIES
157.	MAA GROUP BERHAD	253	R488	PROPERTIES
158.	IRM GROUP BERHAD	269	R480	PROPERTIES
159.	ISKANDAR WATERFRONT CITY BERHAD	259	R479	PROPERTIES
160.	YLI HOLDINGS BERHAD	300	R530	PROPERTIES
161.	GRAND CENTRAL ENTERPRISES BHD	304	R472	PROPERTIES
162.	UOA DEVELOPMENT BHD	308	R526	PROPERTIES
163.	PAVILION REAL ESTATE INVESTMENT TRUST	28	R548	REITS
164.	SUNWAY REAL ESTATE INVESTMENT TRUST	22	R549	REITS
165.	YTL HOSPITALITY REIT	31	R553	REITS
166.	ATRIUM REAL ESTATE INVESTMENT TRUST	29	R542	REITS
167.	HEITECH PADU BERHAD	56	R545	REITS
168.	CLIQ ENERGY BERHAD	131	R554	TRADING / SERVICES
169.	BARAKAH OFFSHORE PETROLEUM BERHAD	19	R573	TRADING / SERVICES
170.	B.I.G. INDUSTRIES BERHAD	13	R613	TRADING / SERVICES
171.	BERJAYA SPORTS TOTO BERHAD	16	R582	TRADING / SERVICES
172.	TENAGA NASIONAL BHD	18	R712	TRADING / SERVICES
173.	WIDETECH (MALAYSIA) BERHAD	441	R729	TRADING / SERVICES
174.	MISC BERHAD	23	R658	TRADING / SERVICES
175.	UMS HOLDINGS BERHAD	49	R722	TRADING / SERVICES
176.	TRANSOCEAN HOLDINGS BHD	35	R719	TRADING / SERVICES
177.	RGB INTERNATIONAL BHD	36	R690	TRADING / SERVICES
178.	SCICOM (MSC) BERHAD	42	R695	TRADING / SERVICES
179.	KUB MALAYSIA BERHAD	99	R643	TRADING / SERVICES
180.	BERJAYA AUTO BERHAD	9	R577	TRADING /

181.	SENI JAYA CORPORATION BERHAD	54	R701	SERVICES TRADING / SERVICES
182.	HARRISONS HOLDINGS (MALAYSIA) BERHAD	58	R625	TRADING / SERVICES
183.	WESTPORTS HOLDINGS BERHAD	59	R730	TRADING / SERVICES
184.	COMPUGATES HOLDINGS BERHAD	61	R592	TRADING / SERVICES
185.	BERJAYA FOOD BERHAD	63	R579	TRADING / SERVICES
186.	CYPARK RESOURCES BERHAD	75	R593	TRADING / SERVICES
187.	BATU KAWAN BERHAD	79	R615	TRADING / SERVICES
188.	DELEUM BERHAD	80	R596	TRADING / SERVICES
189.	SAPURAKENCANA PETROLEUM BERHAD	68	R702	TRADING / SERVICES
190.	PJBUMI BERHAD	69	R686	TRADING / SERVICES
191.	DENKO INDUSTRIAL CORPORATION BERHAD	70	R597	TRADING / SERVICES
192.	MAJUPERAK HOLDINGS BERHAD	71	R647	TRADING / SERVICES
193.	DUTCH LADY MILK INDUSTRIES BERHAD	72	R603	TRADING / SERVICES
194.	SURIA CAPITAL HOLDINGS BERHAD	73	R707	TRADING / SERVICES
195.	MANULIFE HOLDINGS BERHAD	87	R648	TRADING / SERVICES
196.	SYMPHONY HOUSE BHD	93	R708	TRADING / SERVICES
197.	EDARAN BERHAD	108	R606	TRADING / SERVICES
198.	NCB HOLDINGS BERHAD	109	R666	TRADING / SERVICES
199.	ALAM MARITIM RESOURCES BERHAD	117	R562	TRADING / SERVICES
200.	TMC LIFE SCIENCES BERHAD	120	R717	TRADING / SERVICES
201.	INSAS BERHAD	132	R630	TRADING / SERVICES
202.	MAXIS BERHAD	134	R649	TRADING / SERVICES
203.	MALAYAN UNITED INDUSTRIES	138	R561	TRADING /

204.	BERHAD NAIM INDAH CORPORATION BERHAD	139	R667	SERVICES TRADING / SERVICES
205.	MAGNI-TECH INDUSTRIES BERHAD	151	R632	TRADING / SERVICES
206.	GAMUDA BERHAD	161	R616	TRADING / SERVICES
207.	MEDIA PRIMA BERHAD	163	R652	TRADING / SERVICES
208.	AWC BERHAD	165	R571	TRADING / SERVICES
209.	SHIN YANG SHIPPING CORPORATION BERHAD	166	R709	TRADING / SERVICES
210.	LION INDUSTRIES CORPORATION BERHAD	170	R618	TRADING / SERVICES
211.	UMW OIL & GAS CORPORATION BERHAD	154	R723	TRADING / SERVICES
212.	JMR CONGLOMERATION BERHAD	159	R633	TRADING / SERVICES
213.	VOIR HOLDINGS BERHAD	182	R727	TRADING / SERVICES
214.	GENTING PLANTATIONS BERHAD	180	R620	TRADING / SERVICES
215.	FELDA GLOBAL VENTURES HOLDINGS BERHAD	185	R611	TRADING / SERVICES
216.	KOTRA INDUSTRIES BERHAD	188	R639	TRADING / SERVICES
217.	UTUSAN MELAYU (MALAYSIA) BERHAD	189	R725	TRADING / SERVICES
218.	CHEE WAH CORPORATION BERHAD	759	R588	TRADING / SERVICES
219.	PERDANA PETROLEUM BERHAD	190	R680	TRADING / SERVICES
220.	PERAK CORPORATION BERHAD	207	R689	TRADING / SERVICES
221.	LUSTER INDUSTRIES BHD.	203	R645	TRADING / SERVICES
222.	ICAPITAL.BIZ BERHAD	224	R628	TRADING / SERVICES
223.	KPJ HEALTHCARE BERHAD	227	R641	TRADING / SERVICES

Appendix B

The Keywords of CG Among Companies Annual Reports

Table 1: CG Practice, Corporate Disclosure

Keywords	Comply with the BMLR to make disclosure of information	The type of information that could be disclosed to the public	Disclose to the public all the material information in accurate and timely manner	Treat all shareholders equally in terms of information	The number of to access to the material information and ensure the security of all confidential documents	Release material information in fullest possible public dissemination	Ensure that no disclosure of material information is made on a selective basis	disclose any material information that could affect the share prices	Immediate announcement to BM	disclosure activity that may mislead investors or cause unwarranted price movement	Annual Reports as a basis for making any decisions
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Table 2: The Law of Disclosure

Keywords	Members must furnish all the necessary information of any share acquired or held	The company require from the member to inform it whether he holds any voting shares	Disclose the nature of the interest in contracts, property and the offices in the meeting	Directors exercising their duties depend on information professional	Directors offer notice in writing of shares, debentures, participatory interests, rights, and options	Prompt disclosure of unfavourable material information	Confidential matters	The annual reports discloses forward-looking information	Equal access to material information	Ensure security measures to protect information and documents
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Table 3: Bursa Malaysia Listing Requirements

Keywords	Good CG practice.	Taking corrective action for PLCs	PLCs are in line with the principles of the MCCG	Develop and implement effective corporate disclosure policies.	PLCs disclose the extent to which it is complying with the CG	Disclosure in PLCs attached much importance to enhancing CG practices.	PLCS should establish disclosure policies to ensure, accurate and timely disclosure.	Company's performance in implementing CG.	The board responsible for disclosure of information through AR	The board should ensure that the company has appropriate disclosure policies	Directors of PLCs should disclose personal interest to the company.
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Appendix C

Keywords of Best Practice among Companies Guidelines and Annual Reports

Table: Directors

Keywords	The Board	Chairman and Chief Executive Officer	Chairman Role	Board Balance	Supply of Information	Appointment of the Board	Board Performance	Disclosure of Information in Respect of Directors	Access to Information/ Independent Advice
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Table: Directors Remuneration

Keywords	Remuneration Procedure	The Level of Remuneration	Disclosure of Remuneration
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Table: Relation with Shareholders

Keywords	Annual General Meetings	Communication with Shareholders	Major and Material Transactions	Declaration of Interest
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Table: Accountability and Audit

Key words	Financial Reporting	Internal Control	⁴ Audit Committee	Code of Ethics	Corporate Governance Disclosure
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Appendix D

Interview questionnaires to the regulatory authorities

Section A: Company Profile.

Please answer the questions as objectively and honestly as possible. Please tick for the best answer in the space provided at each question which reflects your answer accurately.

1. Name:

2. Position:

Section B: Corporate Governance Principles

Please answer the questions in the appropriate place as provided below

1	In order to promote good corporate governance practice how the Malaysian code of corporate governance to be adequate?
2	To what extent the corporate governance practices of public listed companies can be in line with the principles of Malaysian code of corporate governance?
3	How listed issuer implement and develop effective corporate disclosure policies?
4	In what ways do listed companies disclose information regarding the compliance of corporate governance policies and procedures?
5	Does disclosure by public listed companies improve corporate governance practices, why?
6	What are the disclosure policies and procedures that listed issuers should establish in order to give accurate and timely disclosure?
7	Are the listed companies annual report capable of disclosing sufficient information to the public?
8	What are the information that directors of public listed companies should disclose to the public?

	<p align="center">Section C: The Law of Disclosure</p> <p align="center">Please answer the questions in the appropriate place as provided below</p>
1	Are members of public listed companies required to furnish all the necessary information of any share acquired or held either directly or indirectly?
2	To what extent is a member of public listed companies required to disclose whether he holds any voting shares in the company as beneficial owner or as trustee?
3	Do directors of listed companies disclose the nature of their interest in contracts, property and the offices in the meeting of the company?
4	Do directors consult professionals before exercising their duties of disclosing any information?
5	Do directors of public listed companies offer notice in writing off shares, debentures, participatory interests, rights, options and contracts as are necessary for the purposes of compliance with the law?
6	Does public listed companies ensure security measures to protect information and documents relating to the affairs or accounts of the members?

	<p align="center">Section D: Bursa Malaysia Requirements</p> <p align="center">Please answer the questions in the appropriate place as provided below</p>
1	How true that public listed companies comply with the Bursa Malaysia listing requirements in respect of its obligation to make disclosure of information?
2	How true that public listed companies have disclosure policy which dictates the type of information that could be disclosed to the public?
3	Is it true that public listed companies ensure that strictest confidentiality is maintained when the material information is being temporarily withheld?
4	To what extent do public listed companies disseminate and release material information to the public in an effective manner?
5	Do public listed companies ensure that no disclosure of material information is made on a selective basis?
6	Do public listed companies disclose any material information that could affect their share prices?
7	Do public listed companies announce immediately to the exchange any purchase or sale of securities?
8	Are listed companies refrained from promotional disclosure activity that may mislead investors or cause unwarranted price movement in the securities?
9	How true that Annual Reports are used as a basis for making any decisions about a company?
10	Are you an eyewitness of a case where the annual report is not in conformity with the rules and guidelines?

	<p style="text-align: center;">Section E: Best Practice</p> <p style="text-align: center;">Please use the space below to answer the following questions upon your understanding</p>
1	Do listed companies have its own written corporate governance rules?
2	To what extent do companies ensure that the statement of compliance with the Best Practices of corporate governance is reviewed by statutory auditors?
3	Do companies published a statement or Annual Reports that set out the status of their compliance with the Best Practices of Corporate Governance?
4	Does the Malaysian Code of Corporate Governance provide sufficient information about Best Practices?
5	Does corporate governance and best practices help companies to ensure disclosure-reporting procedures?
6	Does listed companies use an internationally recognized disclosure standard?
7	To what extent does companies disclose additional information in accordance with Best Practices and voluntary standards?
8	Do individual listed company has its own Best Practice?
9	Do listed issuer's adopt corporate governance practices whose standards are higher than the minimum required by law?
10	Do companies have written policies or codes that have been elaborated which set out disclosure practices?

	<p style="text-align: center;">Section F: General Information</p> <p style="text-align: center;">Please use the space below to answer the following questions upon your understanding.</p>
1	What are the key strengths and weaknesses of disclosure policy?
2	Is there a disclosure problem that you have witness in any of the listed companies?
3	Do the disclosure principles, provisions and guidelines are sufficiently clear? Why?
4	In your opinion, what are the other major corporate governance problems or issues faced by the Malaysian Public Listed Companies?

Comments:

Thank You